

Regular Session, 2009

HOUSE BILL NO. 833

BY REPRESENTATIVE DOVE AND SENATORS DUPRE AND MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COASTAL COMMISSION: Provides relative to the Coastal Protection and Restoration Authority

1 AN ACT

2 To amend and reenact R.S. 36:4(Z), 358(B), and 508.3(A), (B), (C), (F), and (G), R.S.
3 38:100(Introductory Paragraph), 101(A) and (B), 102, 103(A) and (B), 106(A)(1)
4 and (2) and (B), 107(A), 108, and 109, R.S. 49:214.1 and 214.2, R.S. 56:421(B)(3)
5 and (E)(4), 424(H), 425(E), 427.1(C), 432.1(A), (B)(1)(a), (2), (3), and (4),
6 (C)(Introductory Paragraph) and (1), (D)(1), and 432.2; to enact R.S. 49:214.3.1,
7 214.4.1 and 214.4.2, 214.5.1. through 214.5.8, and 214.6.1 through 214.6.11, and to
8 repeal Chapter 3-A of Title 38 of the Louisiana Revised Statutes of 1950, comprised
9 of R.S. 38:241 through 249, Subpart A of Part II of Chapter 2 of Title 49 of the
10 Louisiana Revised Statutes of 1950, comprised of R.S. 49:213.1 through 213.12,
11 R.S.49:214.3 through 214.16; relative to hurricane protection, flood control, and
12 coastal restoration; to create the Office of Hurricane Protection, Flood Control, and
13 Coastal Restoration in the Office of the Governor; to consolidate functions relative
14 to hurricane protection, flood control, and coastal restoration under the authority of
15 that office; to provide relative to the powers, duties, functions, and responsibilities
16 of that office; provides for the inter-relations between the Governor's Office of
17 Coastal Activities, the Coastal Protection and Restoration Authority, the Governor's
18 Advisory Commission on Coastal Protection, Restoration, and Conservation, and the
19 Office of Hurricane Protection, Flood Control, and Coastal Restoration. and to
20 provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:4(Z), 358(B), and 508.3(A), (B), (C), (F), and (G) are hereby amended and reenacted to read as follows:

§4. Structure of executive branch of state government

* * *

Z. The Governor's Advisory Commission on Coastal Restoration and Conservation (R.S. ~~49:214.11 et seq.~~ 49:214.4.1), the Governor's Office of Coastal Activities (R.S. 49:214.3.1), and the Office of Hurricane Protection, Flood Control, and Coastal Restoration (R.S. 49:214.5.1 et seq.) shall be placed within the office of the governor and shall perform and exercise ~~its~~ their powers, duties, functions, and responsibilities as provided by law.

* * *

§358. Offices; purposes and functions

* * *

B.~~(1)~~ The office of coastal ~~restoration and~~ management shall perform the functions of the state relative to ~~conservation, development and, where feasible, restoration and enhancement of the state's coastal wetlands resources, and will serve as the primary state agency responsible for implementation of the state's coastal vegetated wetlands conservation and restoration plan.~~

~~(2) The office of coastal restoration and management shall be composed of the coastal restoration division and the coastal management division. The coastal management division shall implement the coastal zone management program. The coastal restoration division shall perform those functions of the state relating to the conservation, restoration, creation, and enhancement of coastal wetlands in Louisiana as provided by law.~~

* * *

§508.3. Office of public works, ~~hurricane flood protection,~~ and intermodal transportation; functions; assistant secretary; powers and duties

A. There is hereby created within the Department of Transportation and Development the office of public works, ~~hurricane flood protection~~, and intermodal transportation which shall administer all matters, including engineering, related to the programs of the state ~~with respect to the design, construction, extension, improvement, repair, and regulation of hurricane flood protection, including but not limited to the construction and design of a hurricane flood protection system consisting of levees and associated elements to provide protection against tidal surges within the Louisiana coastal zone as defined in R.S. 49:214.24, and other special hurricane flood protection programs as may be directed by the secretary, and with respect to aviation, public transportation, public mass transit, railroad, and water transportation systems, and public works functions of the state related to flood and drainage control, reclamation, water resources, soil conservation, mapping, disaster relief and related matters, and other special programs as may be directed by the secretary. The office shall also administer the state's participation in the National Flood Insurance Program, 42 USC 4001 et seq.~~

B. The office of public works, ~~hurricane flood protection~~, and intermodal transportation shall be under the immediate supervision of the assistant secretary of the office of public works, ~~hurricane flood protection~~, and intermodal transportation, who shall be appointed by the governor. He shall serve at the pleasure of the secretary. He shall be a competent engineer of recognized ability and standing who is experienced in the engineering duties pertaining to public works, ~~hurricane flood protection~~, and intermodal transportation. He shall be licensed to practice civil engineering in Louisiana. He shall give his whole time to the duties of his office.

C. The assistant secretary shall have authority subject to approval of the secretary in accordance with applicable rules and regulations of the civil service commission to employ, appoint, transfer, assign, and promote such personnel as is necessary for the efficient administration of the public works, ~~hurricane-flood protection,~~ and intermodal transportation programs of the state.

* * *

1 F. The assistant secretary of public works, ~~hurricane flood protection~~, and
2 intermodal transportation shall approve all plans, specifications, and estimates for
3 the construction of all facilities and projects for which his office is responsible. He
4 also shall have such other duties as may be assigned to him by the secretary, by the
5 provisions of this Chapter, or by the laws of this state. He shall report the
6 proceedings of his office annually to the secretary of the department and at such
7 other times as the secretary may designate, and he shall make any additional reports
8 as are required by the secretary.

9 G. The secretary is specifically authorized and empowered to perform any of
10 the duties of the assistant secretary of public works, ~~hurricane flood protection~~, and
11 intermodal transportation when the assistant secretary is absent or incapacitated or
12 when in the opinion of the secretary it would be in the best interest of the
13 department. The assistant secretary of public works, ~~hurricane flood protection~~, and
14 intermodal transportation with approval of the secretary may designate a licensed
15 engineer in the office of public works, ~~hurricane flood protection~~, and intermodal
16 transportation to perform any duties required of the assistant secretary.

17 * * *

18 Section 2. R.S. 38:100(Introductory Paragraph), 101(A) and (B), 102, 103(A) and
19 (B), 106(A)(1) and (2) and (B), 107(A), 108, and 109 are hereby amended and reenacted to
20 read as follows:

21 §100. Object and purpose

22 It is the object and purpose of this Chapter to provide for participation by the
23 state of Louisiana in the Westwego to Harvey Canal hurricane protection project, for
24 modifications of the Westwego to Harvey Canal hurricane protection project to
25 include the Lake Cataouatche area, the East of Harvey Canal hurricane protection
26 project, and for any other future project modifications or additions within the
27 parishes of Jefferson, Orleans, Plaquemines, and St. Charles. It is further the object
28 of this Chapter to designate the ~~Louisiana Department of Transportation and~~
29 ~~Development~~ Coastal Protection and Restoration Authority as the nonfederal sponsor

1 for the construction of the projects and to furnish the United States such assurances
2 and cooperation as may be required by the Congress of the United States that the
3 department will:

4 * * *

5 §101. West Bank Hurricane Protection Projects

6 A. For the purpose established in this Chapter and in the act of designation
7 dated May 5, 1993, promulgated by the governor pursuant to R.S. 38:81, designating
8 the ~~Department of Transportation and Development~~ Coastal Protection and
9 Restoration Authority as the nonfederal sponsor for the construction of the
10 Westwego to Harvey Canal hurricane protection project, for modifications of the
11 Westwego to Harvey Canal hurricane protection project to include the Lake
12 Cataouatche area, the East of Harvey Canal hurricane protection project, and for any
13 other future project modifications or additions within the parishes of Jefferson,
14 Orleans, Plaquemines, and St. Charles, the ~~secretary of the department~~ executive
15 director of the Coastal Protection and Restoration Authority is authorized to
16 negotiate and contract with the United States of America to provide such assurances
17 and cooperation as is necessary for the purposes authorized in this Chapter, including
18 the negotiation and contract for any future modifications to the current local
19 cooperation agreement between the West Jefferson Levee District and the
20 Department of the Army for the Westwego to Harvey Canal hurricane protection
21 project. The ~~secretary~~ chairman of the Coastal Protection and Restoration Authority
22 is authorized to contract for the construction of these projects, including any future
23 project modifications or additions, and for the financing of the nonfederal share of
24 the construction cost by the United States to be repaid by the state, with interest over
25 a thirty-year period.

26 B. The ~~secretary~~ chairman of the Coastal Protection and Restoration
27 Authority is authorized to proceed and cooperate in the planning, engineering,
28 design, and construction of the Westwego to Harvey Canal hurricane protection
29 project, for modifications of the Westwego to Harvey Canal hurricane protection

1 project to include the Lake Cataouatche area, the East of Harvey Canal hurricane
2 protection project, and for any other future project modifications or additions within
3 the parishes of Jefferson, Orleans, Plaquemines, and St. Charles; to wit, providing
4 the highest level of hurricane protection, consisting of levees, floodwall, floodgates,
5 and related structures, as may be economically justified for those portions of
6 Jefferson, Orleans, Plaquemines, and St. Charles parishes located on the west bank
7 of the Mississippi River generally between the easternmost guide levee of the Davis
8 Pond Freshwater Diversion Project in St. Charles Parish and the community of
9 Oakville, Louisiana, in Plaquemines Parish.

10 * * *

11 §102. Powers

12 A. The ~~department~~ Coastal Protection and Restoration Authority may do all
13 things necessary to carry out the purposes of this Chapter, including but not limited
14 to the things expressly provided for in this Section.

15 B. The ~~department~~ Coastal Protection and Restoration Authority may enter
16 into contracts and agreements of any nature for the purposes of this Chapter with any
17 person either natural or artificial, corporation, association, or other entity, including
18 public corporations, levee districts, port authorities, state departments, agencies,
19 parishes, municipalities, the United States government and agencies thereof, or any
20 combination thereof or with instrumentalities of every kind, and may designate any
21 department, agency, municipality, parish, levee district, and industrial district, or
22 other political subdivision of the state as its agent to carry out the purposes of and
23 the powers granted under this Chapter. The ~~secretary~~ chairman of the Coastal
24 Protection and Restoration Authority may negotiate with and enter into contracts or
25 other agreements with any such person or entity concerning the joint administration
26 of the project, including jurisdictional aspects of the state's administration of the
27 project, and providing lands, servitudes and rights-of-way, and the relocation of
28 project facilities and may engage jointly in the exercise of any power and in the
29 construction of any facilities and improvements for the purposes of the project on

1 any basis, including matching of funds, which the participating entities may
2 undertake under any provision of general or special law.

3 C. The ~~department~~ Coastal Protection and Restoration Authority may
4 institute or defend in courts of competent jurisdiction, including for the purposes of
5 this Chapter, the courts and administrative tribunals of the United States of America,
6 any legal proceedings that may be necessary or required to compel compliance with
7 this Chapter or any actions taken hereunder or that may arise out of the performance
8 of the obligations and duties imposed by this Chapter.

9 D. The powers granted under this Chapter shall be regarded as supplemental
10 to powers conferred on the ~~Department of Transportation and Development~~ Coastal
11 Protection and Restoration Authority by other laws.

12 §103. Coordination and cooperation

13 A. It is the policy of this Chapter that the West Bank hurricane protection
14 projects be pursued so that there is full coordination and cooperation between all
15 federal and state entities that have complementing or overlapping interests and
16 authority in the projects. The ~~secretary of the Department of Transportation and~~
17 ~~Development~~ chairman of the Coastal Protection and Restoration Authority is
18 authorized to coordinate all of the state and local governmental aspects of the
19 projects so that there is an orderly development of the project.

20 B. The ~~secretary of the Department of Transportation and Development~~ is
21 chairman of the Coastal Protection and Restoration Authority authorized to call upon
22 the West Jefferson Levee District, the Orleans Levee District, Plaquemines Parish,
23 St. Charles Parish, and all other commissions and districts and state agencies,
24 departments, and political subdivisions of the state for full and complete cooperation
25 and assistance in carrying out the provisions of this Chapter, and all such entities are
26 hereby directed and it shall be their duty to cooperate and assist the department to the
27 fullest extent possible.

28 * * *

29 §106. Object and purpose

A.(1) It is the object and purpose of this Chapter to provide for participation by the state of Louisiana in the Lower Atchafalaya River interim flood protection project.

(2) It is further the object of this Chapter to designate the ~~Louisiana~~
~~Department of Transportation and Development~~ Coastal Protection and Restoration
Authority as the non-federal sponsor for the construction of the projects and to
furnish the United States such assurances and cooperation as may be required by the
Congress of the United States that the department shall:

* * *

B. The department Coastal Protection and Restoration Authority shall repay to the United States, with interest, the non-federal share of the construction of the projects.

§107. Lower Atchafalaya River interim flood protection projects

A. For the purpose established in this Chapter and for the purposes of designating the ~~Department of Transportation and Development~~ Coastal Protection and Restoration Authority as the non-federal sponsor for the construction of the Lower Atchafalaya River interim flood protection project, the ~~secretary of the department~~ chairman of the Coastal Protection and Restoration Authority may negotiate and contract with the United States to provide such assurances and cooperation as is necessary. The ~~secretary~~ chairman of the Coastal Protection and Restoration Authority is authorized to contract for the construction of these projects and for the financing of the non-federal share of the construction cost by the United States to be repaid by the state, with interest.

* * *

§108. Powers

A. The ~~department~~ Coastal Protection and Restoration Authority may do all things necessary to carry out the purposes of this Chapter, including but not limited to the things expressly provided for in this Section.

1 B.(1) The ~~department~~ Coastal Protection and Restoration Authority may
2 enter into contracts and agreements of any nature for the purposes of this Chapter
3 with any person, natural or artificial, corporation, association or other entity,
4 including public corporations, levee districts, port authorities, state departments,
5 agencies, parishes, municipalities, the United States government and agencies
6 thereof, or any combination thereof or with instrumentalities of every kind, and may
7 designate any department, agency, municipality, parish, levee district, and industrial
8 district or other political subdivision of the state as its agent to carry out the purposes
9 of the powers granted under this Chapter.

10 (2) The ~~secretary~~ chairman of the Coastal Protection and Restoration
11 Authority may negotiate with and enter into contracts or other agreements with any
12 such person or entity concerning the joint administration of the project, including
13 jurisdictional aspects of the state's administration of the project, and providing lands,
14 servitudes, and rights-of-way, the relocation of project facilities and may engage
15 jointly in the exercise of any power and in the construction of any facilities and
16 improvements for the purposes of the project on any basis, including matching of
17 funds, which the participating entities may undertake under any provision of general
18 or specific law.

19 C. The ~~department~~ chairman of the Coastal Protection and Restoration
20 Authority may institute or defend in courts of competent jurisdiction, including for
21 the purposes of this Chapter the courts and administrative tribunals of the United
22 States, any legal proceedings that may be necessary or required to compel
23 compliance with this Chapter or any actions taken hereunder or that may arise out
24 of the performance of the obligations and duties imposed by the Chapter.

25 D. The powers granted under this Chapter shall be regarded as supplemental
26 to powers conferred on the ~~Department of Transportation and Development~~ Coastal
27 Protection and Restoration Authority by other laws.

28 §109. Coordination and cooperation

1 A. It is the policy of this Chapter that the Lower Atchafalaya interim flood
2 protection projects be pursued so that there is full coordination and cooperation
3 between all federal and state entities that have complementing or overlapping
4 interests and authority in the projects. The ~~secretary of the Department of~~
5 ~~Transportation and Development~~ chairman of the Coastal Protection and Restoration
6 Authority may coordinate all of the state and local governmental aspects of the
7 projects so that there is an orderly development of the project.

8 B. The ~~secretary of the Department of Transportation and Development~~
9 chairman of the Coastal Protection and Restoration Authority may call upon the
10 cities of Morgan City and Berwick, and all other commissions and districts and state
11 agencies, departments, and political subdivisions of the state for full and complete
12 cooperation and assistance in carrying out the provisions of this Chapter, and all such
13 entities are hereby directed and it shall be their duty to cooperate and assist the
14 department to the fullest extent possible.

15 Section 3. R.S. 49:214.1 and 214.2 are hereby amended and reenacted and R.S.
16 49:214.3.1, 214.4.1 and 214.4.2, 214.5.1. through 214.5.8, and 214.6.1 through 214.6.11 are
17 hereby enacted to read as follows:

18 SUBPART B. ~~LOUISIANA COASTAL WETLANDS~~
19 ~~CONSERVATION AND RESTORATION PROGRAM~~
20 HURRICANE PROTECTION, FLOOD CONTROL AND COASTAL RESTORATION

21 §214.1. ~~Short title~~ Purpose and intent

22 This Subpart shall be known and may be cited as the Louisiana Coastal
23 Wetlands Conservation and Restoration Act.

24 ~~(R.S. 49:213.1(A))~~ A. Louisiana and its citizens have suffered catastrophic losses
25 and human, economic, and social harm. For the benefit and protection of the state as
26 a whole, its citizens, and its localities, hurricane protection is vital to survival.
27 Hurricane protection and coastal restoration must be integrated to achieve a long-
28 term solution of coastal protection. In addition to immediate needs for hurricane
29 protection, coastal land loss in Louisiana continues in catastrophic proportions.

1 Wetlands loss threatens valuable fish and wildlife production and the viability of
2 residential, agricultural, energy, and industrial development in coastal Louisiana.

3 ~~(R.S. 49:213.1(B))~~ B. In the past, efforts by the state to address the myriad,
4 interrelated problems of coastal protection have been inadequate, fragmented,
5 uncoordinated, and lacking in focus and strong direction. The state must have a
6 single agency with authority to articulate a clear statement of priorities and to focus
7 development and implementation of efforts to achieve comprehensive coastal
8 protection. Without this authority, the safety of citizens, the viability of the state and
9 local economies, and the long-term recovery from disasters such as Hurricanes
10 Katrina and Rita remain in jeopardy.

11 ~~(R.S. 49:213.1(A))~~ C. The state must act to develop, implement, and enforce a
12 comprehensive integrated coastal protection plan. The state must act to ensure that
13 the plan integrates hurricane protection and coastal restoration efforts in order to
14 achieve long-term and comprehensive coastal protection. Comprehensive coastal
15 protection must proceed in a manner that recognizes that the proper functioning of
16 each protective element is critical to the overall success of the plan and that without
17 such proper functioning the safety of the state and its citizens and the viability of the
18 entire plan are threatened. Further, comprehensive integrated coastal protection must
19 further proceed in a manner that recognizes the powers and duties of political
20 subdivisions, including flood protection authorities, and levee districts, to fund and
21 manage local activities that are consistent with the goals of a comprehensive coastal
22 protection plan. The state must act to conserve, restore, create, and enhance
23 wetlands and barrier shorelines or reefs in coastal Louisiana while encouraging use
24 of coastal resources and recognizing that it is in the public interest of the people of
25 Louisiana to establish a responsible balance between development and conservation.
26 Management of renewable coastal resources must proceed in a manner that is
27 consistent with and complementary to the efforts to establish a proper balance
28 between development and conservation.

1 ~~(R.S. 49:213.1(D))~~ D. It is the intention of the legislature that comprehensive
2 integrated coastal protection be elevated to a position within state government of
3 high visibility and action and that hurricane protection, storm damage reduction,
4 flood control, and conservation and restoration of the coastal area be of high priority
5 within that structure. To provide aggressive state leadership, direction, and
6 consonance in the development and implementation of policies, plans, and programs
7 to achieve comprehensive coastal protection, including the encouragement of
8 multiple uses of the coastal zone and to achieve a proper balance between
9 development and conservation, restoration, creation, and nourishment of renewable
10 coastal resources, the legislature places responsibility for the direction and
11 development of the state's comprehensive master coastal protection plan with the
12 Coastal Protection and Restoration Authority within the office of the governor. In
13 order to maximize the effectiveness of coastal protection efforts, ~~the secretaries of~~
14 ~~the Department of Natural Resources and the Department of Transportation and~~
15 ~~Development and the governor's executive assistant for coastal activities shall use~~
16 ~~an integrated team effort to jointly coordinate master plan development with federal~~
17 ~~agencies and political subdivisions, including levee districts.~~ the Coastal Protection
18 and Restoration Authority shall use an integrated effort to jointly coordinate master
19 plan and annual plan development with the Office of Coastal Protection and
20 Restoration, state agencies, political subdivisions, including flood protection
21 authorities, levee districts, and federal agencies.

22 ~~(R.S. 49:213.1(E))~~ E. Notwithstanding any other provision of state law and in
23 accordance with the requirements of the Department of Defense, Emergency
24 Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and
25 Pandemic Influenza Act of 2006, the Coastal Protection and Restoration Authority
26 is established, authorized, and empowered to carry out any and all functions
27 necessary to serve as the single entity responsible to act as the local sponsor for
28 construction, operation and maintenance of all of the hurricane, storm damage

1 reduction and flood control projects in areas under its jurisdiction, including the
2 greater New Orleans and southeast Louisiana area.

3 §214.2. Policy Definitions

4 ~~The legislature declares that it is the public policy of the state to develop and~~
5 ~~implement, on a comprehensive and coordinated basis, a program for coastal~~
6 ~~vegetated wetlands conservation and restoration in order to reduce if not eliminate~~
7 ~~the catastrophic rate of coastal land loss in Louisiana. Consistent with this goal, it~~
8 ~~is the policy of this state to achieve a proper balance between development and~~
9 ~~conservation and encourage the use of coastal resources.~~

10 As used in this Part, the following terms shall have the meaning ascribed to
11 them below:

12 ~~R.S. 49:213.2(1)~~ (1) "Annual plan" means the state coastal protection plan
13 ~~submitted annually to the legislature as provided in this Part including amendments~~
14 ~~to the plan. for protecting, conserving, and restoring the coastal area through the~~
15 ~~construction and management of integrated coastal protection projects and programs~~
16 ~~pursuant to the provisions of R.S. 49:214.5.3.~~

17 ~~R.S. 49:213.2(2)~~ (2) "Authority" means the Coastal Protection and Restoration
18 Authority.

19 ~~R.S. 49:213.2(3)~~ (3) "Coastal area" means the Louisiana Coastal Zone and
20 contiguous areas subject to storm or tidal surge.

21 ~~R.S. 49:213.2(4)~~ (4) "~~Coastal~~ Integrated coastal protection" means plans,
22 projects, policies, and programs intended to provide hurricane protection or coastal
23 conservation or restoration, and shall include but not be limited to, coastal
24 restoration; coastal protection; infrastructure; storm damage reduction; flood control;
25 water resources development; erosion control measures; marsh management;
26 diversions; saltwater intrusion prevention; wetlands conservation, enhancement and
27 restoration; mitigation; storm surge reduction; or beneficial use projects.

28 ~~R.S. 49:213.2(5)~~ (5) "Conservation and restoration" means the conservation,
29 protection, enhancement, and restoration of coastal ~~wetlands~~ resources including but

1 not limited to coastal wetlands and barrier shorelines or reefs through the
2 construction and management of coastal ~~wetlands~~ resources enhancement projects,
3 including privately funded marsh management projects or plans, and those activities
4 requiring a coastal use permit which significantly affect such projects or which
5 significantly diminish the benefits of such projects or plans insofar as they are
6 intended to conserve or enhance coastal ~~wetlands~~ resources consistent with the
7 legislative intent as expressed in R.S. ~~49:213.1~~ 49:214.3.1.

8 ~~R.S. 49:213.2(6)~~ (6) "Executive assistant" means the special assistant to the
9 governor for coordination of coastal activities as delineated in R.S. 49:214.6.1(B).

10 ~~R.S. 49:213.2(7)~~ (7) "Fund" means the Coastal Protection and Restoration
11 Fund.

12 ~~R.S. 49:213.2(8)~~ (8) "Hurricane protection" means a system of barriers and
13 associated elements to provide protection against tidal and storm surges.

14 ~~R.S. 49:213.2(9)~~ (9) "Infrastructure" means publicly owned facilities or
15 systems in the coastal zone that are negatively impacted by coastal land loss or rising
16 seas, and that serve a critical public purpose and are consistent with the priorities
17 stated in the master plan and the eligible uses of the Gulf of Mexico Energy Security
18 Act of 2006. The term shall not include levee, hurricane protection, or coastal
19 restoration systems.

20 ~~R.S. 49:213.2(10)~~ (10) "Master plan" or "comprehensive master coastal
21 protection plan" means the long-term comprehensive integrated coastal protection
22 plan combining coastal restoration, flood control, storm damage reduction, hurricane
23 protection, flood control, and the protection, conservation, restoration, and
24 enhancement of coastal wetlands and barrier shorelines or reefs, including
25 amendments to the plan. It shall include but not be limited to state and political
26 subdivision operations plans.

27 ~~R.S. 49:213.2(11)~~ (11) "Program" means a management strategy with
28 procedures, projects, schedules, operations, and related activities to achieve a stated
29 goal or objective.

1 ~~R.S. 49:213.2(12)~~ (12) "Project" means a physical structure or structures
2 designed and constructed according to the annual plan.

3 (13) "Office" means the Office of Hurricane Protection, Flood Control, and
4 Coastal Restoration.

5 (14) "Executive Director" means the person appointed to serve as the head
6 of the Office of Hurricane Protection, Flood Control, and Coastal Restoration.

7 ~~R.S. 49:214.3(3)~~ (15) "Wetlands" means an open water area or an area that is
8 inundated or saturated by surface or ground water at a frequency and duration
9 sufficient to support, and that under normal circumstances does support, a prevalence
10 of vegetation typically adapted for life in saturated soil conditions, but specifically
11 excluding fastlands and lands more than five feet above mean sea level which occur
12 within the designated coastal ~~zone~~ area of the state. Wetlands generally include
13 swamps, marshes, bogs, and similar areas.

14 (17) "Sponsoring authority" means the governing authority of any municipal,
15 parish, or other political subdivision submitting an application for funding of a
16 project in the program.

17 §214.3.1. Governor's Office of Coastal Activities

18 A. The executive assistant

19 ~~R.S. 49:213.3(B))~~ (1) The ~~authority~~ Governor's Office of Coastal Activities shall
20 ~~be composed~~ consist of the executive assistant to the governor for coastal activities
21 and ~~other members as provided by R.S. 49:213.5~~ any necessary staff. The executive
22 assistant shall be appointed by the governor, subject to Senate confirmation, to serve
23 at his pleasure. He shall report directly to the governor.

24 ~~R.S. 49:213.3(C)(1))~~ (2) The governor, through the executive assistant, consistent
25 with the legislative intent as expressed in R.S. ~~49:213.1~~ 49:214.1, shall coordinate
26 the powers, duties, functions, and responsibilities of any state agency relative to
27 integrated coastal protection. ~~coastal protection and restoration and shall administer~~
28 ~~the programs of the authority. The executive assistant may use the contracting~~

~~authority of any state department or agency to implement the provisions of this Subpart. Such contracting authority shall include design-build where appropriate.~~

~~(R.S. 49:213.3(C)(2)(a))~~ (3) The executive assistant shall employ necessary staff to carry out the duties and functions of the ~~authority~~ Governor's Office of Coastal Activities as provided in this Part or as otherwise provided by law and may seek and utilize the assistance of personnel in any state department or agency to carry out the duties and functions as provided in this Part or otherwise provided by law. He shall ~~(R.S. 49:213.4(B)(11))~~ manage his personnel as provided by law and shall ~~R.S. 49:213.4(B)(12)~~ manage his budget, office, and related functions as provided by law.

~~R.S. 49:213.3(C)(2)(b))~~ (4) The executive assistant shall commission a study to determine the appropriate education, experience, compensation, background, and credentials necessary for a person to serve as the executive director of engineering and science for the Office of Hurricane Protection, Flood Control, and Coastal Restoration. ~~Based on the findings of that study, the executive assistant shall employ a staff person or utilize the services of a person from a state department or agency to function as the director of engineering and science. The executive assistant shall ensure that the person has the respect of the scientific and engineering communities and the appropriate capabilities to serve in such position. He shall report his findings to the governor who may appoint an executive director. The executive director shall serve at the pleasure of the governor at a salary fixed by the governor.~~

(5) The executive assistant may utilize the assistance of the Office of Hurricane Protection, Flood Control, and Coastal Restoration to provide all executory and implementation functions needed to further the goals of the master plan and annual plan.

B. Functions and responsibilities

~~R.S. 49:213.4(B)~~ (1) The governor, through the executive assistant, shall:

~~R.S. 49:213.4(B)(1)~~ (a) Coordinate all state departmental budget requests for programs and projects pertaining to ~~infrastructure, coastal protection, including~~

1 ~~hurricane protection and coastal wetlands conservation and restoration, including~~
2 ~~mitigation projects related to wetlands in the coastal zone, integrated coastal~~
3 ~~protection as well as all requests for funds to be appropriated from the Coastal~~
4 ~~Protection and Restoration Fund.~~

5 ~~R.S. 49:213.4(B)(2)~~ (b) Coordinate and focus the functions of all state agencies
6 as they relate to ~~infrastructure, integrated coastal protection, including infrastructure,~~
7 hurricane protection and wetlands conservation and restoration, and mitigation
8 projects related to wetlands in the coastal ~~zone~~ area.

9 ~~R.S. 49:213.4(B)(3)~~ (c) Review and reconcile state agency comments on federally
10 sponsored ~~infrastructure, integrated coastal protection, including infrastructure,~~
11 hurricane protection, water resource development projects or permitted conservation
12 and restoration activities to establish and present the official state position which
13 shall be consistent with the policies of the authority.

14 ~~R.S. 49:213.4(B)(4)~~ (d) Represent the policy and consensus viewpoint of the state
15 at the federal, regional, state, and local levels with respect to ~~infrastructure,~~
16 integrated coastal protection, including infrastructure, hurricane protection and
17 wetlands conservation and restoration, and mitigation projects related to wetlands in
18 the coastal zone.

19 ~~R.S. 49:213.4(B)(5)~~ (e) Appraise the adequacy of statutory and administrative
20 mechanisms for coordinating the state's policies and programs at both the intrastate
21 and interstate levels with respect to ~~infrastructure, integrated coastal protection,~~
22 including infrastructure, hurricane protection and wetlands conservation and
23 restoration, and mitigation projects related to wetlands in the coastal zone.

24 ~~R.S. 49:213.4(B)(6)~~ (f) Appraise the adequacy of federal, regional, state, and local
25 programs to achieve the policies and meet the goals of the state with respect to
26 ~~infrastructure, integrated coastal protection, including infrastructure,~~ hurricane
27 protection and wetlands conservation and restoration.

1 ~~R.S. 49:213.4(B)(7)~~ (g) Oversee and coordinate federal and state-funded research
2 related to integrated coastal protection, including coastal land loss and subsidence,
3 and the effects of storm surge.

4 ~~R.S. 49:213.4(B)(8)~~ (h) Coordinate and focus federal involvement in Louisiana
5 with respect to ~~infrastructure~~; integrated coastal protection, including infrastructure,
6 hurricane protection and coastal wetlands conservation and restoration.

7 ~~R.S. 49:213.4(B)(9)~~ (i) Provide the official state recommendations to the
8 legislature and congress with respect to policies, programs, and coordinating
9 mechanisms relative to ~~infrastructure~~; integrated coastal protection, including
10 infrastructure, hurricane protection and wetlands conservation and restoration, or
11 wetlands loss and storm surge research.

12 ~~R.S. 49:213.4(B)(10)~~ (j) Monitor and seek available federal and private funds
13 consistent with the purposes of this Part.

14 ~~(R.S. 49:213.4(C)(6))~~ (k) Take such other actions not inconsistent with law as are
15 necessary to ~~properly~~ perform the functions of the authority.

16 ~~R.S. 49:213.4(C)~~ (2) The governor, through ~~his~~ the executive assistant, may,
17 in an effort to advance the plan or purposes of this Part, within any department,
18 agency, board, or commission:

19 ~~R.S. 49:213.4(C)(1)~~ (a) Review and modify policies, procedures, or programs not
20 established or approved by the legislature or pursuant to the Administrative
21 Procedure Act that may affect the design, construction, operation, management, and
22 monitoring and more particularly to require expeditious permitting of ~~infrastructure~~
23 ~~and integrated~~ coastal protection projects, ~~including hurricane protection projects,~~
24 ~~restoration projects, wetlands enhancement or marsh management plans, or~~
25 ~~expenditures from the fund.~~

26 ~~R.S. 49:213.4(C)(2)~~ (b) Review and request modifications of state departmental
27 policies, procedures, programs, rules, and regulations that are established by law or
28 pursuant to the Administrative Procedure Act that may affect the design,
29 construction, operation, management, and monitoring of ~~infrastructure~~; integrated

coastal protection projects ~~including, hurricane protection projects, restoration projects, wetlands enhancement or marsh management plans,~~ or expenditures from the Fund. Such rule changes shall be initiated by the appropriate department.

~~R.S. 49:213.4(C)(3)~~ (c) Appoint advisory panels.

~~R.S. 49:213.4(C)(7)~~ (d) Review and modify proposed coastal use permits prior to issuance to the extent that such permits would authorize activities which significantly affect ~~hurricane protection or wetlands conservation and restoration~~ integrated coastal protection projects or which significantly diminish the benefits of projects intended to protect, conserve or enhance coastal areas and to require the issuance of permits for public or private ~~wetlands enhancement~~ integrated coastal protection projects or plans.

§214.4.1 Governor's Advisory Commission on Coastal Protection, Restoration and Conservation

A. Statement of purpose

~~(R.S. 49:214.11(A))~~ (1) Louisiana and its citizens have suffered catastrophic losses and human, economic, and social harm. For the benefit and protection of the state as a whole, its citizens, and its localities, hurricane protection is vital to survival. Hurricane protection and coastal restoration efforts must be integrated to achieve a long-term solution of coastal protection. The state must act to develop, implement, and enforce a comprehensive coastal protection plan. The state must act to ensure that the plan integrates hurricane protection, storm damage reduction, flood control, and coastal restoration efforts in order to achieve long-term and comprehensive integrated coastal protection.

~~(R.S. 49:214.11(B))~~ (2) An important aspect of the need for coastal protection is that Louisiana is annually losing between twenty-five and thirty-five square miles of coastal wetlands to the Gulf of Mexico. In 2005, the coastal area suffered a devastating loss of nearly one hundred square miles resulting from Hurricanes Katrina, ~~and Rita,~~ Gustav and Ike. The loss of the state's coastal wetlands threatens natural, cultural, and economic resources which are of vital importance to our state

1 and nation. The numerous benefits provided by our coastal wetlands include the
2 presence of an abundance of habitat for waterfowl, fur-bearing species, and fisheries
3 that support recreational and commercial interests. In addition, our coastal wetlands
4 act as the first line of defense for coastal communities, including New Orleans, in the
5 face of hurricanes and tropical storm surges. They also provide protection for the
6 pipelines through which much of our nation's energy supply flows. And, our coastal
7 wetlands are home to unique and diverse cultures that have called the wetlands home
8 for many generations.

9 ~~(R.S. 49:241.11(C))~~ (3) The state of Louisiana recognizes the need to develop,
10 implement, and enforce a comprehensive coastal protection plan. As a component
11 of the plan, the state of Louisiana recognizes the necessity of establishing a
12 sustainable coastal ecosystem. The task of developing a comprehensive coastal
13 protection plan and restoring and developing a sustainable coastline will require
14 implementation of an holistic, comprehensive engineering plan which encompasses
15 the entirety of southern Louisiana. It will require the cooperation and participation
16 of numerous state, federal, and local agencies. In addition, the task of plan
17 development and restoring and conserving this ecosystem will require the
18 participation and support of the numerous and diverse interests that live, work, and
19 recreate in those wetlands and others who depend upon our coast's continued health
20 and existence. In order to provide a venue for input from the broad range of persons
21 and groups who must participate in and assist the efforts to protect, preserve, restore,
22 and enhance the coast of Louisiana, it is hereby declared to be in the public interest
23 that the Governor's Advisory Commission on Coastal Protection, Restoration and
24 Conservation be created in the office of the governor.

25 B. ~~The secretary shall:~~ Membership

26 ~~(1) Receive all monies appropriated from the Wetlands Conservation and~~
27 ~~Restoration Fund and shall implement all programs and projects in the coastal~~
28 ~~vegetated wetlands conservation and restoration plan approved by the legislature.~~

1 ~~(2) Negotiate and execute contracts, upon such terms as he may agree upon,~~
2 ~~for legal, financial, engineering, construction, and other professional services~~
3 ~~necessary in the conduct of the affairs of the office.~~

4 ~~(R.S. 49:214.12(A)(1))~~ (1) The Governor's Advisory Commission on Coastal
5 Protection, Restoration and Conservation is hereby created and shall be composed
6 as follows:

7 ~~(R.S. 49:214.12(A)(1)(a))~~ (a) Two members to be appointed by the governor
8 from the academic community.

9 ~~(R.S. 49:214.12(A)(1)(b))~~ (b) Two members to be appointed by the governor
10 from the business and industrial community.

11 ~~(R.S. 49:214.12(A)(1)(c))~~ (c) Two members to be appointed by the governor
12 from the nonprofit corporation community.

13 ~~(R.S. 49:214.12(A)(1)(d))~~ (d) Two members to be appointed by the governor
14 from the conservation community.

15 ~~(R.S. 49:214.12(A)(1)(e))~~ (e) Two members to be appointed by the governor
16 from the agricultural community.

17 ~~(R.S. 49:214.12(A)(1)(f))~~ (f) Two members to be appointed by the governor from
18 governing bodies of political subdivisions of the state.

19 ~~(R.S. 49:214.12(A)(1)(g))~~ (g) Two members to be appointed by the governor
20 from the energy production and distribution sector.

21 ~~(R.S. 49:214.12(A)(1)(h))~~ (h) Two members to be appointed by the governor to
22 represent the fishing community, one of whom shall be from the commercial fishing
23 industry and one of whom shall be from the recreational fishing community.

24 ~~(R.S. 49:214.12(A)(1)(i))~~ (i) One member to be appointed by the governor from
25 the oyster industry.

26 ~~(R.S. 49:214.12(A)(1)(j))~~ (j) Two members to be appointed by the governor to
27 represent coastal landowners.

28 ~~(R.S. 49:214.12(A)(1)(k))~~ (k) Two members to be appointed by the governor to
29 represent ports and related industries.

1 ~~(R.S. 49:214.12(A)(1)(l))~~ (l) Six members to be appointed at large by the
2 governor.

3 ~~(R.S. 49:214.12(A)(1)(m))~~ (m) The president of the Senate or his designee.

4 ~~(R.S. 49:214.12(A)(1)(n))~~ (n) The speaker of the House of Representatives or his
5 designee.

6 ~~(R.S. 49:214.12(A)(1)(o))~~ (o) The chairman of the House Committee on Natural
7 Resources and Environment or his designee.

8 ~~(R.S. 49:214.12(A)(1)(p))~~ (p) The chairman of the Senate Committee on Natural
9 Resources or his designee.

10 ~~(R.S. 49:214.12(A)(1)(q))~~ (q) Two members appointed by the Association of
11 Levee Boards of Louisiana from the members of levee boards having districts
12 located in whole or in part within the Louisiana coastal zone. The members so
13 appointed shall serve terms concurrent with that of the governor.

14 ~~(R.S. 49:214.12(A)(1)(r))~~ (r) One member appointed by the governor
15 representing the maritime industry.

16 ~~(R.S. 49:214.12(A)(1)(s))~~ (s) The chairman of the House Committee on
17 Transportation, Highways and Public Works or his designee.

18 ~~(R.S. 49:214.12(A)(1)(t))~~ (t) The chairman of the Senate Committee on
19 Transportation, Highways and Public Works or his designee.

20 ~~(R.S. 49:214.12(A)(2))~~ (2) In addition, the governor or the commission may
21 request employees of federal agencies involved with coastal restoration activities to
22 participate as nonvoting members of the commission.

23 C. ~~The secretary may:~~ Terms of appointment

24 ~~(1) Enter into cost sharing agreements with the federal government, with~~
25 ~~local governments, or with private entities to implement coastal vegetated wetlands~~
26 ~~conservation and restoration projects.~~

27 ~~(2) Acquire by purchase, donation, or otherwise any land needed for~~
28 ~~wetlands and coastal restoration or conservation projects and other property required~~
29 ~~for the operation of the projects that are to be owned and operated by the office or~~

1 political subdivision of the state; provided, that any property acquired for any project
2 shall reserve the minerals to the landowners, whether private or public, in accordance
3 with the provisions of R.S. 31:149.

4 (3) ~~Develop procedures to evaluate new and improved coastal restoration~~
5 ~~and preservation technologies.~~

6 (4) ~~Perform pre-construction and post-construction monitoring of projects~~
7 ~~that will be implemented or have been implemented by the office.~~

8 (5) ~~Coordinate coastal restoration efforts with local governments, interest~~
9 ~~groups, and the public.~~

10 (6) ~~Develop, implement, operate, maintain, and monitor coastal restoration~~
11 ~~plans and projects.~~

12 (7) ~~Take any other action necessary to administer the program.~~

13 (8) ~~Develop guidelines for cost-sharing agreements with public and private~~
14 ~~entities undertaking approved coastal restoration projects.~~

15 ~~R.S. 49:214.12(B)(1)~~ (1) Each appointment shall be for a term of four years except
16 as provided in Paragraph (2) of this Subsection.

17 ~~R.S. 49:214.12(B)(2)~~ (2) The initial term for each appointee shall be as follows:

18 ~~R.S. 49:214.12(B)(1)(a)~~ (a) For the two appointments provided for in
19 Subparagraph ~~(A)~~B(1)(a) of this Section, one shall be appointed for an initial term
20 of six years, and one shall be appointed for an initial term of four years.

21 ~~R.S. 49:214.12(B)(1)(b)~~ (b) For the two appointments provided for in
22 Subparagraph ~~(A)~~B(1)(b) of this Section, one shall be appointed for an initial term
23 of five years, and one shall be appointed for an initial term of three years.

24 ~~R.S. 49:214.12(B)(1)(c)~~ (c) For the two appointments provided for in
25 Subparagraph ~~(A)~~B(1)(c) of this Section, one shall be appointed for an initial term
26 of six years, and one shall be appointed for an initial term of four years.

27 ~~R.S. 49:214.12(B)(1)(d)~~ (d) For the two appointments provided for in
28 Subparagraph ~~(A)~~B(1)(d) of this Section, one shall be appointed for an initial term
29 of five years, and one shall be appointed for an initial term of three years.

1 ~~R.S. 49:214.12(B)(1)(e)~~ (e) For the two appointments provided for in
2 Subparagraph (~~A~~B)(1)(e) of this Section, one shall be appointed for an initial term
3 of six years, and one shall be appointed for an initial term of four years.

4 ~~R.S. 49:214.12(B)(1)(f)~~ (f) For the two appointments provided for in
5 Subparagraph (~~A~~B)(1)(f) of this Section, one shall be appointed for an initial term
6 of five years, and one shall be appointed for an initial term of three years.

7 ~~R.S. 49:214.12(B)(1)(g)~~ (g) For the two appointments provided for in
8 Subparagraph (~~A~~B)(1)(g) of this Section, one shall be appointed for an initial term
9 of six years, and one shall be appointed for an initial term of four years.

10 ~~R.S. 49:214.12(B)(1)(h)~~ (h) For the two appointments provided for in
11 Subparagraph (~~A~~B)(1)(h) of this Section, one shall be appointed for an initial term
12 of five years, and one shall be appointed for an initial term of three years.

13 ~~R.S. 49:214.12(B)(1)(i)~~ (i) The appointment provided for in Subparagraph
14 (~~A~~B)(1)(i) of this Section shall be appointed for an initial term of four years.

15 ~~R.S. 49:214.12(B)(1)(j)~~ (j) For the appointments provided for in Subparagraph
16 (~~A~~B)(1)(j) of this Section, one shall be appointed for an initial term of five years, and
17 one shall be appointed for an initial term of three years.

18 ~~R.S. 49:214.12(B)(1)(k)~~ (k) For the appointments provided for in Subparagraph
19 (~~A~~B)(1)(k) of this Section, one shall be appointed for an initial term of six years, and
20 one shall be appointed for an initial term of four years.

21 ~~R.S. 49:214.12(B)(1)(l)~~ (l) For the six appointments provided for in
22 Subparagraph (~~A~~B)(1)(l) of this Section, two shall be appointed for an initial term
23 of six years, two shall be appointed for an initial term of three years, and the
24 remaining two shall be appointed for an initial term of one year.

25 ~~R.S. 49:214.12(C)~~ D. The governor shall appoint a chairman and a vice chairman.

26 ~~R.S. 49:214.13~~ E. The commission shall have the following powers, duties,
27 and functions:

1 ~~R.S. 49:214.13(1)~~ (1) To advise the governor and the executive assistant for
2 coastal activities relative to the overall status and direction of the state's coastal
3 protection and restoration program.

4 ~~R.S. 49:214.13(2)~~ (2) To provide a forum for coordinating coastal protection and
5 restoration activities and the exchange of information on the status of various state,
6 federal, and local programs affecting coastal protection, preservation and restoration.

7 ~~R.S. 49:214.13(3)~~ (3) To foster cooperation on coastal protection, preservation
8 and restoration issues among federal, state, and local governmental agencies,
9 conservation organizations, and the private sector.

10 ~~R.S. 49:214.13(4)~~ (4) To develop advice with respect to the identification and
11 resolution of conflicts among agencies and stakeholders related to protection,
12 conservation and restoration efforts and to assist in the identification of any other
13 activity which might conflict with the protection, conservation and restoration
14 efforts.

15 ~~R.S. 49:214.13(5)~~ (5) To review programs, conditions, trends, and scientific and
16 engineering findings which affect coastal protection, restoration and conservation in
17 order to make recommendations for improvements to the state's coastal protection,
18 restoration and conservation efforts.

19 ~~R.S. 49:214.13(6)~~ (6) To assist in the identification of potential sources of
20 funding for coastal protection, restoration and conservation programs and to develop
21 advice with respect to developing recommendations for expenditures which are in
22 the best interest of the state.

23 ~~R.S. 49:214.13(7)~~ (7) To report by March first each year to the governor and the
24 legislature relative to the progress, challenges, and recommendations concerning
25 policy and possible legislation for the coastal protection, restoration and conservation
26 program.

27 ~~R.S. 49:214.14~~ F. The Governor's Office of Coastal Activities shall provide
28 staff services for the commission.

1 ~~R.S. 49:214.14~~ G. The commission shall meet as necessary at the call of the
 2 chairman. ~~In its first year of existence, the commission shall meet at least once each~~
 3 ~~quarter. Thereafter, the commission shall meet when necessary.~~ Members shall not
 4 receive a per diem for attendance at meetings but may be reimbursed for travel
 5 expenses and meals at the rate paid by the state for state employees.

6 ~~(R.S. 49:214.15)~~ G. H. The commission may appoint subcommittees to study
 7 and analyze issues affecting coastal restoration and conservation. The subcommittees
 8 may be composed of commission members and may include other members who are
 9 not appointed members of the commission. Any member of a subcommittee who is
 10 not a member of the commission shall ~~have been~~ be appointed to the subcommittee
 11 by the commission in an open meeting, and they may be reimbursed for travel
 12 expenses and meals, at the rate paid by the state for state employees, but only if and
 13 to the extent approved by the commission.

14 §214.4.2. America's Wetlands Trail

15 ~~(R.S. 49:214.16(A))~~ A. The America's WETLAND Trail is hereby created in the
 16 Governor's Office of Coastal Activities.

17 ~~(R.S. 49:214.16(B))~~ B. The purpose of the America's WETLAND Trail shall be
 18 to heighten awareness of the dramatic coastal land loss occurring in south Louisiana
 19 and what that loss means to the entire state and the nation and to promote an
 20 understanding of how important the wetlands are to the state and the nation and what
 21 benefits are derived from these vital wetlands.

22 ~~(R.S. 49:214.16(C)(1))~~ C.(1) The Governor's Office of Coastal Activities shall
 23 develop and implement a plan for the trail which shall at a minimum meet the
 24 objectives in Paragraph (b) of this Subsection.

25 ~~(R.S. 49:214.16(C)(2))~~ (2) The trail will connect sites and events along coastal
 26 Louisiana from the western border with Texas to the eastern border with Mississippi.
 27 The sites included will highlight wildlife preserves and refuges, environmental and
 28 cultural resource centers, birding and nature trails, and cultural and historic sites. In
 29 addition, opportunities and tours will be included that allow visitors and state

residents to experience the vast natural resources of the wetlands and the culture of our heritage through fairs and festivals, and generally to access the eco-tourism opportunities in the state of Louisiana.

§214.5.1. Coastal Protection and Restoration Authority

~~(R.S. 49:213.3(A))~~ A. The Coastal Protection and Restoration Authority is hereby created within the office of the governor. The authority is hereby established, and shall exercise the powers and duties hereinafter set forth or otherwise provided by law.

~~(R.S. 49:213.5)~~ B. The Coastal Protection and Restoration Authority shall consist of the following members:

~~(R.S. 49:213.5(A)(1))~~ (1) Executive assistant to the governor for coastal activities.

~~(R.S. 49:213.5(A)(2))~~ (2) Secretary of the Department of Natural Resources or his designee.

~~(R.S. 49:213.5(A)(3))~~ (3) Secretary of the Department of Wildlife and Fisheries or his designee.

~~(R.S. 49:213.5(A)(4))~~ (4) Secretary of the Department of Environmental Quality or his designee.

~~(R.S. 49:213.5(A)(5))~~ (5) Secretary of the Department of Transportation and Development or his designee.

~~(R.S. 49:213.5(A)(6))~~ (6) Secretary of the Department of Economic Development or his designee.

~~(R.S. 49:213.5(A)(7))~~ (7) Commissioner of administration or his designee.

~~(R.S. 49:213.5(A)(8))~~ (8) Commissioner of agriculture and forestry or his designee.

~~(R.S. 49:213.5(A)(9))~~ (9) Commissioner of insurance or his designee.

~~(R.S. 49:213.5(A)(10))~~ (10) Seven members who shall be appointed by the governor, in consultation with the Police Jury Association of Louisiana and the Association of Levee Boards of Louisiana, from nominations submitted by levee districts located in whole or in part in the coastal ~~zone~~ area, from legislators who represent districts in whole or in part in the coastal ~~zone~~ area, and from parish

governing authorities located in whole or in part in the coastal ~~zone~~ area. The appointees shall be residents of the coastal ~~zone~~ area and shall be appointed on a proportional basis in such a manner as to reflect the population and land area of the parishes located in whole or in part in the coastal ~~zone~~ area. However, there shall be at least two appointees who reside in the area of the coastal ~~zone~~ area located west of the Atchafalaya River and at least two appointees who reside in the area of the coastal ~~zone~~ area located east of the Atchafalaya River.

~~(R.S. 49:213.5(A)(11))~~ (11) The chair of the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation or his designee.

~~(R.S. 49:213.5(A)(12))~~ (12) The director of the Governor's Office of Homeland Security and Emergency Preparedness or his designee.

~~(R.S. 49:213.5(A)(13))~~ (13) The speaker of the House of Representatives, or his designee, who shall serve as an ex officio member who shall not have the authority to vote and who shall not be counted for purposes of a quorum.

~~(R.S. 49:213.5(A)(14))~~ (14) The president of the Senate, or his designee, who shall serve as an ex officio member who shall not have the authority to vote and who shall not be counted for purposes of a quorum.

~~(R.S. 49:213.5(B))~~ (15) Any member of the authority who represents a political subdivision shall recuse himself from deliberations and from voting on any matter concerning the taking of action against that political subdivision for lack of compliance with the plan.

~~(R.S. 49:213.5(C))~~ D. The executive assistant shall serve as chairman ~~and shall develop procedures for the operation of the authority.~~

§214.5.2. Functions and responsibilities; Coastal Protection and Restoration Authority

A. The authority shall:

~~(R.S. 49:213.4(A)(1))~~ (1) Represent the state's position in policy ~~implementation~~ relative to the protection, conservation, and restoration of the coastal area of the state through oversight of ~~coastal restoration, hurricane protection, and infrastructure~~

1 integrated coastal protection projects and programs and by addressing activities
2 which require a coastal use permit which could significantly affect ~~protection,~~
3 ~~conservation, and restoration~~ integrated coastal protection projects and programs, all
4 consistent with the legislative intent as expressed in R.S. ~~49:213.1~~ 49:214.1.

5 (~~R.S. 49:213.4(A)(2)~~) (2) Develop, coordinate, make reports on, and provide
6 oversight for a comprehensive coastal protection master plan and annual ~~coastal~~
7 ~~protection~~ plans, working in conjunction with state agencies, political subdivisions,
8 including flood protection authorities, levee districts, and federal agencies. The
9 master plan shall include a comprehensive strategy addressing the protection,
10 conservation, and restoration of the coastal area through the construction and
11 management of ~~hurricane protection projects and coastal restoration~~ integrated
12 coastal protection projects and programs, all consistent with the legislative intent as
13 expressed in R.S. ~~49:213.1~~ 49:214.1. The annual ~~coastal protection~~ plan shall be
14 developed as the annual implementation of the comprehensive master plan and shall
15 be submitted to the legislature for approval as set forth in R.S. ~~49:213.6~~ 49:214.5.3.
16 The annual ~~coastal protection~~ plan shall include a description and status of all
17 projects and programs pertaining to hurricane protection, coastal restoration,
18 infrastructure, including privately funded wetland enhancement projects or plans,
19 and addressing those activities requiring a coastal use permit which significantly
20 affect projects set forth in the plan, all consistent with the legislative intent as
21 expressed in R.S. ~~49:213.1~~ 49:214.1.

22 (~~R.S. 49:213.4(A)(3)~~) (3) Submit to the House Committee on Natural Resources and
23 Environment and the Senate Committee on Natural Resources and the House
24 Committee on Transportation, Highways and Public Works and the Senate
25 Committee on Transportation, Highways and Public Works the integrated coastal
26 protection plans developed pursuant to R.S. ~~49:213.6~~ 49:214.5.3(E). Upon approval
27 of the plans by the legislative committees and prior to implementation of the plans,
28 in whole or in part, the plans shall be approved by the legislature as provided in R.S.
29 49:213.6(D).

1 ~~(R.S. 49:213.4(A)(4))~~ (4) Have the discretion to approve ~~and implement~~ all requests
2 for integrated coastal protection programs and projects ~~pertaining to hurricane~~
3 ~~protection, infrastructure, and coastal conservation and restoration, and mitigation~~
4 ~~projects related to wetlands~~ in the coastal ~~zone~~ area, insofar as such requests are for
5 funds to be appropriated from the Coastal Protection and Restoration Trust Fund.

6 ~~(R.S. 49:213.4(A)(5))~~ (5) Be authorized to delegate any of its powers, duties, and
7 functions to the chairman of the authority, to the executive assistant director of the
8 Office of Hurricane Protection, Flood Control, and Coastal Restoration, or to state
9 agencies, political subdivisions, including flood protection authorities, or levee
10 districts.

11 (6) The Coastal Protection and Restoration Authority may delegate signing
12 authority for contracts to the chairman of the authority, the executive director of the
13 Office of Hurricane Protection, Flood Control, and Coastal Restoration, or an
14 authorized designee of either.

15 ~~(R.S. 49:213.4(A)(6))~~ (7) Develop procedures in accordance with the Administrative
16 Procedure Act and take actions against any entity, including political subdivisions,
17 to enforce compliance with the comprehensive master coastal protection plan. Such
18 procedures and actions may include but are not limited to determinations of
19 noncompliance; appeal from such determinations; the taking of administrative
20 action, including the withholding of funds; and civil action, including the seeking of
21 injunctive relief, or any other remedy necessary to ensure compliance with the plan.

22 ~~(R.S. 49:213.4(A)(7))~~ (8) Have the power and authority to enter into any contract
23 with the federal government or any federal agency or any political subdivision of the
24 state or private individual for the study, planning, engineering, design, construction,
25 operation, maintenance, repair, rehabilitation, or replacement of any integrated
26 coastal protection ~~coastal restoration, hurricane, infrastructure, storm damage~~
27 ~~reduction, or flood control~~ project and to this end, may contract for the acceptance
28 of any grant of money upon the terms and conditions, including any requirement of
29 matching the grants in whole or part, which may be necessary.

1 ~~(R.S. 49:213.4(A)(8))~~ (9) Have the power and authority to maximize the use of
2 non-federal funds and in-kind donations to provide for the costs associated with
3 non-federal cost-share requirements associated with integrated coastal protection ~~and~~
4 ~~restoration~~ projects.

5 (10) Develop guidelines for cost-sharing agreements with public and private
6 entities undertaking approved coastal restoration projects.

7 B. The authority may:

8 ~~(R.S. 49:213.4(C)(4))~~ (1) Accept and use, in accordance with law, gifts, grants,
9 bequests, endowments, or funds from any public or private source for purposes
10 consistent with responsibilities and functions of the authority and take such actions
11 as are necessary to comply with any conditions required for such acceptance.

12 ~~(R.S. 49:213.4(C)(5))~~ (2) Utilize the services of other executive departments of state
13 government upon mutually agreeable terms and conditions.

14 ~~(R.S. 49:213.4(C)(6))~~ (3) Take such other actions not inconsistent with law as are
15 necessary to perform properly the functions of the authority.

16 ~~(R.S. 49:213.4(D))~~ C. Approval by the authority shall be required for any request
17 by a state agency or department for any funds to finance research, programs,
18 mitigation, or projects involving integrated coastal protection, including hurricane
19 protection or the conservation and restoration of coastal wetlands resources;
20 however, this Subsection shall not affect self-generated or dedicated funds.

21 ~~(R.S. 49:213.4(E))~~ D. No state agency or entity shall enter into a contract with
22 the United States Army Corps of Engineers which would require the state to assume
23 liability for or provide the cost of operations and maintenance for a hurricane
24 protection project unless the contract provides for independent third-party review and
25 evaluation in accordance with the best available science and technical capabilities
26 to confirm the project's anticipated level of protection against hurricane flooding
27 prior to the state or political subdivision assuming liability and operations and
28 maintenance obligations. The independent third-party reviewer and evaluator
29 provided for in the contract shall be approved by both the United States Army Corps

1 of Engineers and the nonfederal sponsor. However, the provisions of this Subsection
 2 shall not apply to contracts for routine maintenance or other minor construction or
 3 repairs, or in cases where there is imminent threat to life or property, or when the
 4 chairman of the Coastal Protection and Restoration Authority, with the approval of
 5 the Coastal Protection and Restoration Authority, determines that an emergency
 6 exists whereby compliance with the provisions of this Subsection would create an
 7 unreasonable hardship.

8 ~~(R.S. 49:213.4(F))~~ E. The authority shall adopt rules and regulations in
 9 accordance with the Administrative Procedure Act to implement the provisions of
 10 this Subpart.

11 §214.5.3. Coastal protection annual plans; development; priorities

12 ~~(R.S. 49:213.6(A)(1)(a))~~ A.(1) The authority shall, in accordance with the
 13 procedures set forth herein, develop a comprehensive master plan for integrated
 14 coastal protection and an annual integrated coastal protection plan for protecting,
 15 conserving, and restoring the coastal area through the construction and management
 16 of ~~hurricane protection and coastal restoration~~ integrated coastal protection projects
 17 and programs, including privately funded marsh management projects or plans, and
 18 addressing those activities requiring a coastal use permit which significantly affect
 19 such projects, all consistent with the legislative intent as expressed in R.S. ~~49:213.1~~
 20 49:214.1, and which plan shall be subject to the approval of the legislature as
 21 provided in ~~Paragraph (2) of this Subsection~~ Subsection B of this Section and
 22 Subsection ~~D~~ E of this Section. In addition, the authority, in accordance with the
 23 procedures set forth herein including legislative approval, shall review, revise, and
 24 amend the master plan when necessary or, at a minimum, every five years.

25 ~~(R.S. 49:213.6(A)(1)(b))~~ (2) The comprehensive master plan and the annual
 26 plan shall include requests for funding of projects and programs related to hurricane
 27 protection and coastal restoration. The annual plan shall include at least a three-year
 28 projection of funding of projects and programs related to hurricane protection,

1 coastal restoration, and infrastructure including, but not limited to, relevant public
2 or private funding sources.

3 ~~(R.S. 49:213.6(A)(2))~~ B. The authority shall develop the plans in accordance with
4 the following procedure:

5 ~~(R.S. 49:213.6(B)(2)(a))~~ (1) The authority shall conduct not less than three
6 public hearings in separate locations in the western, central, and eastern areas of the
7 coastal zone for the purpose of receiving comments and recommendations from the
8 public and elected officials. All public hearings must be held at least sixty days prior
9 to the submission of the plans to the legislature.

10 ~~(R.S. 49:213.6(B)(2)(b))~~ (2) At least two weeks prior to each public hearing the
11 authority shall contact the parish governing authorities, regional flood protection
12 authorities, levee districts, and the state legislators of the parishes in the coastal zone
13 for the purpose of soliciting their comments and recommendations and notifying
14 them of the public hearing to be held in their area.

15 ~~(R.S. 49:213.6(B)(2)(c))~~ (3) Ten days prior to the first such public hearing the
16 authority shall publish in the state register and the official state journal the schedule
17 of public hearings setting out the location, place, and time of all the hearings.

18 ~~(R.S. 49:213.6(B)(2)(d))~~ (4) At least seven days prior to each hearing the
19 authority shall publish a notice of the hearing in the official journal of each parish
20 within the area of the hearing. The notice of a hearing shall have been published in
21 the official journal of each parish in the coastal zone prior to the final scheduled
22 public hearing. The authority may provide for additional public hearings when
23 necessary upon at least three days notice published in the official journal of the
24 parishes in the area of the hearing and written notice to the parish governing
25 authorities.

26 ~~(R.S. 49:213.6(B)(2)(e))~~ (5) The authority shall receive written comments and
27 recommendations until thirty days prior to the submission of the plans to the
28 legislative committees.

1 ~~(R.S. 49:213.6(B))~~ C. The comprehensive coastal protection plan shall address
2 ~~hurricane protection and coastal restoration~~ integrated coastal protection efforts from
3 both short-term and long-range perspectives and shall incorporate structural,
4 management, and institutional components of both efforts. The plan shall include
5 but not be limited to the following:

6 ~~(R.S. 49:213.6(B)(1))~~ (1) A list of projects and programs required for the protection,
7 conservation and restoration of the coastal area and the action required of each state
8 agency to implement said project or program.

9 ~~(R.S. 49:213.6(B)(2))~~ (2) A schedule and estimated cost for the implementation of
10 each project or program included in the plan.

11 ~~(R.S. 49:213.6(C)(1))~~ D.(1) Where feasible, the comprehensive master plan shall
12 include scientific data and other reasons, including but not limited to the social,
13 geographic, economic, engineering, and biological considerations as to why each
14 project or program was selected for inclusion. Specifically, this will include an
15 explanation as to how each project or program advances the plan objectives with
16 respect to the protection, conservation and restoration of the coastal area.

17 ~~(R.S. 49:213.6(C)(2))~~ (2) Prior to recommending any project for inclusion in the
18 comprehensive coastal protection plan, the authority shall identify and declare in
19 writing:

20 ~~(R.S. 49:213.6(C)(2)(a))~~ (a) The public use benefits intended to be derived
21 from the project which justify the project.

22 ~~(R.S. 49:213.6(C)(2)(b))~~ (b) The use benefits which private landowners are
23 expected to derive from the project.

24 ~~(R.S. 49:213.6(C)(2)(c))~~ (c) The manner in which the benefits will be realized
25 over the life of the project.

26 ~~(R.S. 49:213.6(C)(2)(d))~~ (d) The entities or persons who will be responsible for
27 the long-term operation and maintenance of the project both in terms of manpower
28 and cost.

1 ~~(R.S. 49:213.6(C)(2)(e))~~ (e) The entities or persons who will be responsible for
2 monitoring the project to ensure that it is functioning properly and realizing the
3 intended public and private benefits.

4 ~~(R.S. 49:213.6(D)(1))~~ E.(1) After adoption by the authority, the comprehensive
5 master plan shall be submitted to the House Committee on Natural Resources and
6 Environment and the Senate Committee on Natural Resources and the House
7 Committee on Transportation, Highways and Public Works and the Senate
8 Committee on Transportation, Highways and Public Works for approval. In
9 addition, the annual coastal protection plan shall be submitted to the House
10 Committee on Natural Resources and Environment and the Senate Committee on
11 Natural Resources and the House Committee on Transportation, Highways and
12 Public Works and the Senate Committee on Transportation, Highways and Public
13 Works on or before the first day of the regular legislative session of each year. The
14 committees shall take action on the annual plan on or before May fifteenth of each
15 calendar year.

16 ~~(R.S. 49:213.6(D)(2))~~ (2) If any committee disapproves a plan, it shall send the plan
17 back to the authority together with a brief summary of the reasons for disapproval
18 and may make recommendations concerning changes it deems necessary or
19 appropriate to remedy any deficiencies in the plan.

20 ~~(R.S. 49:213.6(D)(3))~~ (3) The legislature may approve or disapprove a plan by
21 resolution adopted by a majority vote of the members of each house of the
22 legislature. If the legislature disapproves the plan, it shall include in the resolution
23 a brief summary of the reasons for disapproval and may make recommendations
24 concerning any changes it deems necessary or appropriate to remedy any
25 deficiencies in the plan.

26 ~~(R.S. 49:213.6(D)(4))~~ (4) If the legislature approves the comprehensive master plan,
27 or if the legislature fails to take action on the comprehensive master plan within sixty
28 days after the plan is submitted, the authority shall implement the plan as submitted.
29 If the legislature approves the plan, or if the legislature fails to disapprove the annual

1 plan by July first, the authority shall implement the plan as submitted. The projects
2 and programs provided for in the plan shall be undertaken in conformity with the
3 order of priority as contained in the plan.

4 ~~(R.S. 49:213.6(D)(5))~~ (5) At any time subsequent to the adoption or implementation
5 of a plan in accordance with the procedure set forth herein, the authority may amend
6 or supplement the plan to add or delete projects and programs. No project shall be
7 added or deleted unless and until the amendment to the plan is approved as provided
8 herein. Any such amendment to the plan submitted to the legislature shall conform
9 to the requirements specified in Subsections B and ~~E~~ E of this Section.

10 §214.5.4. Funding and resource allocation

11 ~~(R.S. 49:213.7(A)(1))~~ A. To provide a dedicated, recurring source of revenue for the
12 development and implementation of a program to protect and restore Louisiana's
13 coastal area, there is hereby established in the state treasury the Coastal Protection
14 and Restoration Fund.

15 ~~(R.S. 49:213.7(A)(2))~~ B. Of all mineral revenues received in each fiscal year by the
16 state including those received as a result of the production of or exploration for
17 minerals, hereinafter referred to as mineral revenues from severance taxes, royalty
18 payments, bonus payments, or rentals, and excluding federal revenues received as
19 provided in Subsection C of this Section and such revenues received by the state as
20 a result of grants or donations when the terms or conditions thereof require
21 otherwise, the treasurer shall make the following allocations:

22 ~~(R.S. 49:213.7(A)(1)(a))~~ (1) To the Bond Security and Redemption Fund as
23 provided in Article VII, Section 9(B) of the Constitution of Louisiana.

24 ~~(R.S. 49:213.7(A)(1)(b))~~ (2) To the political subdivisions of the state as
25 provided in Article VII, Sections 4(D) and (E) of the Constitution of Louisiana.

26 ~~(R.S. 49:213.7(A)(1)(c))~~ (3) As provided by the requirements of Article VII,
27 Sections 10-A and 10.1 of the Constitution of Louisiana.

28 ~~(R.S. 49:213.7(B)(1))~~ C. After making the allocations provided for in Subsection
29 A of this Section, the treasurer shall then deposit in and credit to the Coastal

1 Protection and Restoration Fund any amount of mineral revenues that may be
 2 necessary to insure that a total of five million dollars is deposited into such fund for
 3 the fiscal year from this source; provided that the balance of the fund which consists
 4 of mineral revenues from severance taxes, royalty payments, bonus payments, or
 5 rentals shall not exceed the amount provided in Subsection ~~D~~ F of this Section.

6 ~~(R.S. 49:213.7(B)(2))~~ D. After making the allocations and deposits as provided for
 7 in Subsection A and Paragraph (B)(1) of this Section, the treasurer shall deposit in
 8 and credit to the fund as follows:

9 ~~(R.S. 49:213.7(B)(2)(a))~~ (1) Two percent of the mineral revenues received in
 10 excess of the allocations provided for in Subsection A and Paragraph (B)(1) of this
 11 Section. The treasurer shall reduce the deposit made pursuant to this Subparagraph
 12 by the amount of deposits made pursuant to Subparagraphs (b) and (c) of this
 13 Paragraph.

14 ~~(R.S. 49:213.7(B)(2)(b))~~ (2) Ten million dollars of the mineral revenues in
 15 excess of six hundred million dollars which remain after the allocations provided for
 16 in Subsection A are made by the treasurer.

17 ~~(R.S. 49:213.7(B)(2)(c))~~ (3) Ten million dollars of the mineral revenues in
 18 excess of six hundred fifty million dollars which remain after the allocations
 19 provided in Subsection A are made by the treasurer.

20 ~~(R.S. 49:213.7(C)(1))~~ E.(1) Subject to Article VII, Sections 9(B) and 10.1 of the
 21 state constitution, in each fiscal year, the federal revenues that are received by the
 22 state generated from Outer Continental Shelf oil and gas activity and eligible, as
 23 provided by federal law, to be used for the purposes provided in this Subsection shall
 24 be deposited and credited by the treasurer to the Coastal Protection and Restoration
 25 Fund.

26 ~~(R.S. 49:213.7(C)(2))~~ (2) Such federal revenues shall be used only for the purposes
 27 of integrated coastal protection, including but not limited to, coastal wetlands
 28 conservation, coastal restoration, hurricane protection, and infrastructure directly
 29 impacted by coastal wetlands losses.

1 ~~(R.S. 49:213.7(C)(3))~~ (3) In each year, no more than ten percent of the federal
2 revenues received by the state generated from Outer Continental Shelf oil and gas
3 activity may be used for the purposes of infrastructure directly impacted by coastal
4 wetlands losses.

5 ~~(R.S. 49:213.7(D))~~ F. The money in the fund shall be invested as provided by law
6 and any earnings realized on investment of money in the fund shall be deposited in
7 and credited to the fund. Money from other sources, such as donations,
8 appropriations, or dedications, may be deposited in and credited to the fund;
9 however, the balance of the fund which, exclusive of federal revenues received as
10 provided for in Subsection ~~€~~ E of this Section, consists of mineral revenues from
11 severance taxes, royalty payments, bonus payments, or rentals shall not exceed five
12 hundred million dollars. Any unexpended money remaining in the fund at the end
13 of the fiscal year shall be retained in the fund.

14 ~~(R.S. 49:213.7(E))~~ G. The money in the Coastal Protection and Restoration Fund
15 is subject to appropriations by the legislature for the purposes of integrated coastal
16 ~~restoration, conservation, and hurricane~~ protection. The money in the fund may be
17 used only for those projects and programs which are consistent with the statement
18 of intent, R.S. ~~49:213.1~~ 49:214.1, and the annual plan as it pertains to the ~~coastal~~
19 ~~restoration, conservation and hurricane~~ integrated coastal protection and may include
20 but not be limited to the following purposes:

21 ~~(R.S. 49:213.7(D)(1))~~ (1) Projects and structures engineered for the enhancement,
22 creation, or restoration of coastal wetlands.

23 ~~(R.S. 49:213.7(D)(2))~~ (2) Match for federal or local project planning, design,
24 construction, and monitoring.

25 ~~(R.S. 49:213.7(D)(3))~~ (3) Administration and project management, planning, design,
26 construction, and monitoring.

27 ~~(R.S. 49:213.7(D)(4))~~ (4) Operation and maintenance of structural projects
28 consistent with the purpose of this fund.

1 ~~(R.S. 49:213.7(D)(5))~~ (5) Vegetation planting, seeding, or other revegetation
2 methods.

3 ~~(R.S. 49:213.7(D)(6))~~ (6) Planning and implementation of modifications to federal,
4 state, or local flood control, navigation, irrigation, or enhancement projects.

5 ~~(R.S. 49:213.7(D)(7))~~ (7) For coastal wetlands conservation, coastal restoration,
6 hurricane protection, and infrastructure directly impacted by coastal wetlands losses.

7 (8) The administration and operation of the Office of Hurricane Protection,
8 Flood Control, and Coastal Restoration, the Governor's Office of Coastal Activities,
9 the Governor's Advisory Commission on Coastal Activities, and the Coastal
10 Protection and Restoration Financing Corporation.

11 (9) Projects and programs promoting scientific, technical, and engineering
12 advancements for the sustainability of coastal Louisiana and ensuring that the best
13 available scientific and technical information and tools are available for the
14 implementation of the master plan and annual plan.

15 ~~(R.S. 49:213.7(F))~~ H. As used in this Section, the term "balance of the fund"
16 shall mean those monies in the fund which have not been expended or obligated
17 under the plan approved pursuant to R.S. ~~49:213.6~~ 49:214.5.3, or otherwise obligated
18 in accordance with law.

19 §214.5.5. Private property and public rights

20 ~~(R.S. 49:213.8)~~ Recognizing that a substantial majority of the coastal wetlands
21 in Louisiana are privately owned, it is anticipated that a significant portion of the
22 projects funded through the Coastal Protection and Restoration Fund either will
23 occur on or in some manner affect private property. No rights whatsoever shall be
24 created in the public, whether such rights be in the nature of ownership, servitude,
25 or use, with respect to any private lands or waters utilized, enhanced, created, or
26 otherwise affected by activities of any governmental agency, local, state, or federal,
27 or any person contracting with same for the performance of any activities, funded in
28 whole or in part, by expenditures from the Coastal Protection and Restoration Fund
29 or expenditures of federal funds. In the event legal proceedings are instituted by any

1 person seeking recognition of a right of ownership, servitude, or use in or over
2 private property solely on the basis of the expenditure of funds from the Coastal
3 Protection and Restoration Fund, the state shall indemnify and hold harmless the
4 owner of such property for any cost, expense, or loss related to such proceeding,
5 including court costs and attorney fees.

6 §214.5.6. Measure of compensation; property taken for public purposes;
7 venue

8 ~~(R.S. 49:213.10)(A)~~ A. The full police power of the state shall be exercised to
9 address the rapid, ongoing, and catastrophic loss of coastal Louisiana, and in order
10 to devote the maximum resources of the state to meet this immediate and compelling
11 public necessity, compensation to be paid for property taken for public purposes
12 related to coastal wetlands conservation, management, preservation, enhancement,
13 creation, or restoration shall only be paid by the state or its political subdivisions as
14 provided in this Section.

15 ~~(R.S. 49:213.10)(B)~~ B. Compensation paid for the taking of, including loss or
16 damage to, property rights affected by coastal wetlands conservation, management,
17 preservation, enhancement, creation, or restoration activities shall be governed by
18 and strictly limited to the amount and circumstances required by the Fifth
19 Amendment of the Constitution of the United States of America.

20 ~~(R.S. 49:213.10)(C)~~ C. Notwithstanding any other provision of law to the contrary,
21 any person who has entered into an oyster lease with the state and who is claiming
22 compensation pursuant to this Section arising out of or in any way related to the
23 oyster lease granted by the state shall file such action only in the Nineteenth Judicial
24 District Court for the Parish of East Baton Rouge.

25 ~~(R.S. 49:213.10)(D)~~ D. The full police power of the state shall be exercised to
26 address the loss and devastation to the state and individuals arising from hurricanes,
27 storm surges and flooding. To devote the maximum resources of the state to meet
28 these immediate and compelling public necessities, compensation paid for the taking
29 of, or loss or damage to, property rights necessary for the construction, enlargement,

1 improvement, or modification of federal or non-federal hurricane protection projects,
2 including mitigation related thereto, shall be limited to the compensation required
3 by the Fifth Amendment of the Constitution of the United States of America unless
4 an exception as provided in Article I, Section 4(G) of the Constitution of Louisiana
5 is applicable.

6 §214.5.7. Legal representation of the Authority; attorney general

7 ~~(R.S. 49:213.11)~~ The attorney general or his designee shall be the legal advisor
8 to the authority, shall counsel and advise the authority, and shall represent the
9 authority in all legal proceedings.

10 §214.5.8. Certain activities on dunes prohibited; penalties; speed limits on
11 beaches

12 ~~(R.S. 49:213.9(A))~~ A. Except as provided in Subsection B of this Section, unless
13 operating under a permit issued by a state or federal agency, no person shall engage
14 in any of the following activities on any dune located on public or private land in the
15 coastal zone:

16 ~~(R.S. 49:213.9(A)(1))~~ (1) Willful or malicious cutting, altering, breaking, or
17 destroying a dune in any manner or attempting to cut, alter, break, or destroy a dune
18 in any manner.

19 ~~(R.S. 49:213.9(A)(2))~~ (2) Riding, driving, operating, or hauling any motorized or
20 mechanical vehicle except on public roads.

21 ~~(R.S. 49:213.9(B))~~ B. Notwithstanding the provisions of Paragraph (2) of
22 Subsection A of this Section, private owners of land located in the coastal zone, their
23 employees, or independent contractors hired by the landowner may traverse dunes
24 located on land owned by that landowner using motorized and mechanical vehicles
25 during the course and scope of inspection, repair, construction, or other
26 improvements to the land.

27 ~~(R.S. 49:213.9(C))~~ C. "Dune" shall be defined as a natural or man-made mound
28 or bluff of sand, located landward of the beach, that has sufficient vegetation, height,
29 continuity, and configuration to be of protective value.

1 ~~(R.S. 49:213.9(D))~~ D. Violation of this Section shall be punishable as follows:

2 ~~(R.S. 49:213.9(D)(1))~~ (1) For the first offense, the fine shall be one hundred dollars.

3 ~~(R.S. 49:213.9(D)(2))~~ (2) For the second offense, the fine shall be five hundred
4 dollars.

5 ~~(R.S. 49:213.9(D)(3))~~ (3) For the third and all subsequent offenses, the fine shall be
6 one thousand dollars and imprisonment for not less than thirty days, nor more than
7 sixty days.

8 ~~(R.S. 49:213.9(E))~~ E. In those parishes with a population between nine thousand
9 five hundred and ten thousand five hundred as determined by the latest federal
10 decennial census, the parish governing authority may enact speed limits on beaches.

11 §214.6.1. Office of Hurricane Protection, Flood Control and Coastal
12 Restoration

13 A. The Office of Hurricane Protection, Flood Control and Coastal Restoration
14 is created and shall be a body corporate with the power to sue and be sued. The
15 domicile of the department shall be in Baton Rouge.

16 (1) The Office of Hurricane Protection, Flood Control and Coastal
17 Restoration has all of the rights, powers, and immunities incident to corporations. It
18 may acquire, own, administer, alienate, and otherwise dispose of all kinds of
19 property, movable and immovable, tangible and intangible; contract; adopt, alter, or
20 destroy an official seal; sue and be sued, implead, and be impleaded. Except as
21 otherwise expressly provided by this Chapter, the office may perform every act
22 necessary, convenient, or incidental to the exercise of its power and authority, the
23 discharge of its duties, or the performance of its functions.

24 (2) The office shall be the implementation and enforcement arm of the
25 Coastal Protection and Restoration Authority. The office shall be directed by the
26 policy set by the Coastal Protection and Restoration Authority as enumerated in R.S.
27 49:214.1.

28 (3) The office, through its offices and officers, shall be responsible for the
29 implementation and enforcement of the comprehensive master plan and annual plan.

1 This office shall integrate hurricane protection, storm damage reduction, flood
2 control, infrastructure, and coastal protection and restoration efforts in order to
3 achieve long-term goals expressed in the master plan and annual plans.

4 B. Executive director and deputy director of the Office of Hurricane
5 Protection, Flood Control and Coastal Restoration

6 (1) There shall be an executive director of the Office of Hurricane
7 Protection, Flood Control and Coastal Restoration. He shall report to the Coastal
8 Protection and Restoration Authority for all matters within the jurisdiction and
9 purview of the Coastal Protection and Restoration Authority, and work in
10 conjunction with the executive assistant of the Governor's Office of Coastal
11 Activities.

12 (2) The executive director shall be appointed by the governor and shall serve
13 at the pleasure of the governor.

14 (3) The executive director shall have authority, subject to the budgetary
15 constraints of the funding provided in R.S. 49:214.5.4, and in accordance with
16 applicable rules and regulations of the civil service commission to employ, appoint,
17 transfer, assign, terminate, and promote such personnel as is necessary for the
18 efficient administration of the Office of Hurricane Protection, Flood Control and
19 Coastal Restoration.

20 (4) The executive director shall approve all plans, specifications, and
21 estimates for the construction of all projects for which the office is responsible. He
22 also shall have such other duties as may be assigned to him by the Coastal
23 Protection and Restoration Authority, by the provisions of this Chapter, or by the
24 laws of this state. He shall report the proceedings of his office annually to the Coastal
25 Protection and Restoration Authority and at such other times as the Coastal
26 Protection and Restoration Authority may designate, and he shall make any
27 additional reports as are required by the Coastal Protection and Restoration
28 Authority.

1 (5) The executive director, or in his discretion a subordinate or subordinates,
2 shall administer the programs approved and funded by the Coastal Protection and
3 Restoration Authority relating to and affecting integrated coastal protection,
4 including conservation, restoration, creation, and enhancement of coastal wetlands,
5 hurricane protection and flood control in Louisiana as provided by law; and other
6 special programs as may be directed by the Coastal Protection and Restoration
7 Authority.

8 ~~R.S. 49:213.4(B)(13)~~ (6) Report annually to the legislature as to the progress of the
9 projects and programs enumerated in the ~~plan~~ master plan or annual plans or any
10 component thereof. For each project or program, estimated construction and
11 maintenance costs, progress reports, and estimated completion timetables shall be
12 provided.

13 (7) The executive director is granted full power and authority to delegate,
14 assign, or appoint in his discretion any subordinate to perform any function or duties
15 required by law to be performed by the office, except as specifically provided in this
16 Title. This grant of power and authority shall be liberally construed to effectuate the
17 purposes of this Chapter.

18 (d) The executive director shall provide the necessary reports, staff,
19 assistance, and support to the Coastal Protection and Restoration Authority in order
20 to assist in the development of the master plan and annual plan.

21 (8) There shall be a deputy executive director of the Office of Hurricane
22 Protection, Flood Control and Coastal Restoration. He shall perform all duties
23 defined in this Section in the absence of the executive director or through authority
24 delegated to him by the executive director or in conjunction with the duties of the
25 executive director.

26 §214.6.2. Functions and Responsibilities; coastal activities

27 A. The office shall administer the programs of the Coastal Protection and
28 Restoration Authority. The Executive Director may use his contracting authority,
29 or the contracting authority of any state department or agency, to implement the

1 provisions of this Chapter. Such contracting authority shall include construction
2 management at risk, operation and maintenance, design/build, design/build/operate
3 and maintain, and design/build/finance/operate/ and maintain, or any combination
4 of design, construction, finance, and services for operation and maintenance of an
5 integrated coastal protection project, where appropriate. The Office of Hurricane
6 Protection, Flood Control, and Coastal Restoration shall have the authority to
7 execute and implement said contracts entered into under the authority of R.S.
8 49:214.5.2(A)(8).

9 B. The office shall implement projects relative to the protection,
10 conservation, and restoration of the coastal area of the state through oversight of
11 integrated coastal projects and programs consistent with the legislative intent as
12 expressed in R.S. 49:214.1. However, no integrated coastal protection construction
13 project shall be undertaken except those included in an annual plan finally approved
14 by the legislature in accordance with the provisions of R.S. 49:214.5.3, regardless
15 of the source of funds for the project, except in cases of projects undertaken and
16 financed out of the emergency fund, referenced in R.S. 48:232, and projects
17 involving the use of matching funds to meet federal requirements in order to receive
18 federal aid funds. All projects undertaken pursuant to the provisions of this Chapter
19 shall be either funded through the Coastal Protection and Restoration Fund or other
20 sources of funding including, but not limited to, direct federal aid, grants, gifts, and
21 other donations received by the state for the purposes of this Chapter.

22 C. The office shall:

23 (1) Receive all monies appropriated from the Coastal Protection and
24 Restoration Fund to the Office of Hurricane Protection, Flood Control and Coastal
25 Restoration for implementation of all programs and projects contained in an annual
26 plan developed by the Coastal Protection and Restoration Authority and approved
27 by the legislature.

28 ~~(R.S. 49:213.4(C)(6))~~ (2) Take such other actions not inconsistent with law as are
29 necessary to properly perform the functions of the authority office.

1 D. The office may:

2 (1) Negotiate and execute contracts, upon such terms as he may agree upon,
3 for legal, financial, engineering, construction, and other professional services
4 necessary in the conduct of the affairs of the office. However, this authority shall not
5 include the power to enter into agreements with the federal government, with local
6 governments, political subdivisions, or with private entities to implement integrated
7 coastal protection projects.

8 (2) Acquire by purchase, donation, or otherwise any land needed for
9 integrated coastal protection projects and other property required for the operation
10 of the projects that are to be owned and operated by the office or political
11 subdivision of the state; provided, that any property acquired for any project shall
12 reserve the minerals to the landowners, whether private or public, in accordance with
13 the provisions of R.S. 31:149.

14 (3) Develop procedures to evaluate new and improved integrated coastal
15 protection technologies.

16 (4) Perform pre-construction and post-construction monitoring of projects
17 that will be implemented or have been implemented by the office.

18 (5) Coordinate integrated coastal protection efforts with local governments,
19 political subdivisions, interest groups, and the public.

20 (6) Develop, implement, operate, maintain, and monitor integrated coastal
21 protection plans and projects.

22 (7) Take any other action necessary to administer any plans, projects,
23 policies, or programs consistent with the master plan or any annual plan.

24 E. Any rule, regulation, or guideline developed pursuant to this Subpart shall
25 be proposed or adopted pursuant to the rulemaking procedures set forth in the
26 Administrative Procedure Act.

27 §214.6.3. Functions and responsibilities; hurricane protection and flood
28 control

29 A. Legislative Intent

1 ~~(R.S. 38:241(A))~~ (1) The legislature recognizes that under Article VI,
2 Section 9 of the Louisiana Constitution the state carries the ultimate responsibility
3 for the protection of the health and safety of the people of Louisiana. Though in
4 many policy areas, including the exercise of certain police powers, the management
5 of affairs is best handled by a local entity, the legislature must remain vigilant in
6 evaluating whether the advantages of a statewide, coordinated effort come to
7 outweigh the advantages that local governments have in responding to local
8 concerns.

9 (2) As Hurricanes Katrina, Rita, Gustav, and Ike have taught us, coastal
10 protection has become a state issue. The existing, disjointed system of local levee
11 districts is not conducive to the development of a coordinated plan for hurricane
12 flood protection nor to the implementation of such a plan. ~~(R.S. 38:241(D))~~ With the
13 passage of Act No. 8 of the 2005 First Extraordinary Session of the Legislature, the
14 state recognized the need for the development of a single coast-wide plan for both
15 coastal restoration and hurricane flood protection. Levees and other flood control
16 structures and marsh are both important for protecting Louisiana from the storm
17 surge that hurricanes bring. In light of the tremendous coastal land loss that the state
18 has already endured, if levee programs and coastal restoration programs continue to
19 be operated independently and without consideration of the other, the state will never
20 achieve the goal of providing the best possible hurricane flood protection for its
21 citizens.

22 ~~(R.S. 38:241(E))~~ (3) The legislature concludes from these findings that the state
23 should assume direct responsibility for the coordinating, planning, constructing,
24 realigning, and repairing of hurricane protection levees and other hurricane flood
25 protection structures and facilities in a manner consistent with R.S. 49:214.1~~(E)~~.

26 ~~(R.S. 38:241(F)(1))~~ (4) This Section provides for the functions, powers, and
27 responsibilities of the Office of Hurricane Protection, Flood Control and Coastal
28 Restoration, which office is charged with oversight of the design, construction,
29 extension, improvement, repair, and regulation of hurricane flood protection projects

1 in the coastal ~~zone~~ area. ~~(R.S. 38:241(F)(3))~~ The Section also provides for the
2 integration of the state's hurricane flood control efforts with coastal restoration
3 efforts through the Coastal Protection and Restoration Authority.

4 B. Office of Hurricane Protection, Flood Control, and Coastal Restoration
5 duties and responsibilities regarding hurricane flood protection:

6 (1) The office shall have oversight of the administration of all matters related
7 to the studying, planning, engineering, design, construction, extension, improvement,
8 repair, and regulation of a hurricane flood protection system, including but not
9 limited to the construction and design of a hurricane flood protection system
10 consisting of levees and associated elements to provide protection against tidal
11 surges within the coastal area.

12 (2) The inspection of hurricane flood protection levees and structures within
13 the coastal area shall be the responsibility of the Office of Hurricane Protection,
14 Flood Control, and Coastal Restoration. ~~(R.S. 49:213.12)~~ The office shall establish
15 and implement a comprehensive hurricane protection inspection program. Such
16 program shall include the following:

17 (a) Reviewing of hurricane protection diagrams, designs and plans.
18 (b) Monitoring of defects and problems.
19 (c) Conducting of an inspection of every hurricane protection barrier and
20 associated elements at least every five years, or after a hurricane impacts a hurricane
21 protection barrier and associated elements. If a defect or problem is identified, then
22 the authority shall measure and test elevations, soil conditions, and structural
23 integrity of the hurricane protection barrier and associated elements.

24 (d) The office shall report a notice of defect in the hurricane protection
25 within thirty days of the inspection results to the appropriate entity or political
26 subdivision. The notice shall contain a description of the defect. The notice of
27 defect shall be mailed by certified mail or return receipt requested. The appropriate
28 entity, or political subdivision, shall have forty-five days from receipt of the notice
29 of defect to provide the office with a plan and timeline to remedy the defect.

1 (3) The exercise of any authority with respect to hurricane flood protection
2 by a political subdivision within the coastal zone is subject to the oversight and
3 approval of the office in accordance with rules and regulations adopted by the office.

4 (4) No state agency or entity shall enter into a contract with the United States
5 Army Corps of Engineers which would require the state to assume liability for or
6 provide the cost of operations and maintenance for a hurricane protection project
7 unless the contract provides for independent third-party review and evaluation in
8 accordance with the best available science and technical capabilities to confirm the
9 project's anticipated level of protection against hurricane flooding prior to the state
10 or political subdivision assuming liability and operations and maintenance
11 obligations. The independent third-party reviewer and evaluator provided for in the
12 contract shall be approved by both the United States Army Corps of Engineers and
13 the nonfederal sponsor. However, the provisions of this Subsection shall not apply
14 to contracts for routine maintenance or other minor construction or repairs, or in
15 cases where there is imminent threat to life or property, or when the chairman of the
16 Coastal Protection and Restoration Authority, with the approval of the Coastal
17 Protection and Restoration Authority, determines that an emergency exists whereby
18 compliance with the provisions of this Subsection would create an unreasonable
19 hardship.

20 §214.6.4. Functions and responsibilities; continuation of certain flood control
21 projects

22 A. Nothing in this Chapter is intended to interfere with or impede the design,
23 planning, construction, or financing of any flood protection project undertaken by
24 any levee district within the coastal area which were initiated prior to January 1,
25 2006.

26 §214.6.5. Hurricane protection and flood control activities; levees or levee
27 drainage purposes; taking of property; compensation

28 A. Pursuant to Article 1, Section 4(G) and Article VI, Section 42(A) of the
29 Constitution of Louisiana, compensation paid for the taking of, or loss or damage to,

1 property rights affected by the construction, enlargement, improvement, or
2 modification of federal or non-federal hurricane protection projects, including
3 mitigation related thereto, shall not exceed the compensation required by the Fifth
4 Amendment of the Constitution of the United States of America.

5 B. For the purposes of this Section, "full extent of the loss" as provided in
6 any law or rule affecting taking of property for the purposes set forth in Subsection
7 A of this Section shall mean compensation required by the Fifth Amendment of the
8 Constitution of the United States of America.

9 C. The provisions of this Section shall supersede and control to the extent
10 of conflict with any other provision of law.

11 D. As provided in Article I, Section 4(G) of the Constitution of Louisiana,
12 the provisions of this Section shall not apply to compensation paid for a building or
13 structure that was destroyed or damaged by an event for which a presidential
14 declaration of major disaster or emergency was issued, if the taking occurs within
15 three years of such event.

16 §214.6.6. Infrastructure Priority Program; applications; evaluations

17 A. Applications for funding of any infrastructure project may be submitted
18 by any political subdivision of the state. For any infrastructure projects, applications
19 shall be made to the Coastal Protection and Restoration Authority by November first
20 of each year for consideration of funding in the following fiscal year. Applications
21 submitted in accordance with the provisions of this Section shall not be subject to the
22 provisions of R.S. 39:101. Agencies submitting applications for projects in this
23 program shall be responsible for preparation of applications for their respective
24 projects. Information to be provided in the application shall include but not be
25 limited to the following:

26 (1) Description of the infrastructure impacted by coastal wetlands loss and
27 demonstration of need for the project and benefits of the project.

28 (2) Preliminary project design and cost estimate.

1 (3) Description of project area including the geographical area affected, and
2 land ownership information.

3 (4) Description of how the project is consistent with the priorities of the
4 master plan and how the project will address mitigation issues.

5 B. Project applications shall not be subjected to formal review and
6 evaluation until the information required in the application has been submitted or is
7 determined to be unavailable.

8 C. The applications submitted by agencies shall be evaluated by the Coastal
9 Protection and Restoration Authority which shall hold no less than three public
10 hearings in separate locations within the Coastal Zone for the purpose of receiving
11 public testimony and comment from requesting authorities and citizens regarding the
12 proposed infrastructure projects. Such hearings may be held at the same time and
13 location as hearings set for public comment on the annual plan. The office shall
14 prioritize and rank such applications. The office shall provide its application
15 evaluations to the authority.

16 D. Based upon the evaluations of the office, the authority may compile a list
17 of infrastructure projects to be formally included in the annual plan.

18 §214.6.7. Barrier Islands, Shoreline Stabilization, and Preservation

19 ~~(R.S. 49:214.7(A))~~ A. The ~~secretary of the Department of Natural Resources~~
20 executive director of the Office of Hurricane Protection, Flood Control, and Coastal
21 Restoration shall establish a barrier islands and shorelines stabilization and
22 preservation program. As part of the barrier islands and shorelines program, the
23 ~~department office~~ shall require that all projects subject to public bid include
24 appropriate dredges for use to stabilize and preserve barrier islands and shorelines.
25 In addition, the ~~department office~~ shall require that all barrier island stabilization and
26 preservation projects mandate a minimum dune height of eight feet with vegetation
27 where appropriate.

28 ~~(R.S. 49:214.7(B))~~ B. By September first each year, the governing authority of
29 each parish which has barrier islands and shorelines shall submit to the ~~secretary~~

1 office and the Coastal Protection and Restoration Authority a list of barrier islands
2 and shorelines stabilization and preservation projects requested for that parish. The
3 ~~Department of Natural Resources~~ office shall review the projects submitted and by
4 December first of each year shall issue a list which prioritizes those requests.

5 ~~(R.S. 49:214.7(C))~~ C. The priority list shall be promulgated and shall be subject
6 to legislative oversight by the House Committee on Natural Resources and
7 Environment and the Senate Committee on Natural Resources under the
8 Administrative Procedure Act. Such oversight shall occur prior to February first each
9 year.

10 ~~(R.S. 49:214.7(D))~~ D. Funding for the barrier islands and shorelines stabilization
11 and preservation projects shall be available from the Barrier Island Stabilization and
12 Preservation Fund. In the event funding from the Barrier Island Stabilization and
13 Preservation Fund is not appropriated in a given year, the barrier islands and
14 shorelines stabilization and preservation program shall be suspended until funds are
15 appropriated for the program.

16 ~~(R.S. 49:214.8(A))~~ E.(1) There is hereby created, as a special fund in the state
17 treasury, the Barrier Island Stabilization and Preservation Fund, hereinafter referred
18 to as the "Barrier Island fund". The source of monies in the fund shall be
19 appropriations, donations, grants, and other monies which may become available for
20 the purposes of the fund.

21 ~~(R.S. 49:214.8(B))~~ (2) The monies in the fund shall be subject to appropriation
22 and may only be used as provided in R.S. ~~49:214.6(C)(4)(d)(iii)~~ 49:214.6.7. The
23 monies in the fund shall be invested by the treasurer in the same manner as monies
24 in the state general fund, and interest earnings shall be deposited in and credited to
25 the fund. All unexpended or unencumbered monies remaining in the fund at the end
26 of the fiscal year shall remain to the credit of the fund.

27 ~~(R.S. 49:214.8(C))~~ (3) Monies appropriated from the fund shall be used
28 exclusively by the ~~Department of Natural Resources~~ Office of Hurricane Protection,
29 Flood Control, and Coastal Restoration to support the barrier island stabilization and

1 preservation program within the Louisiana Coastal Wetlands Conservation and
2 Restoration Program, as provided in § 214.6(C)(4)(a).

3 ~~(R.S. 49:214.7(E))~~ F. The ~~Department of Natural Resources~~ Office of Hurricane
4 Protection, Flood Control, and Coastal Restoration shall annually submit a barrier
5 island status report to the legislature. The report shall indicate the condition of all
6 barrier islands, provide the status of all barrier island stabilization and preservation
7 projects under construction, and shall outline future plans for restoration and
8 maintenance of the barrier islands and coastal passes. The annual report shall be
9 submitted to each member of the legislature during the regular session of the
10 legislature.

11 §214.6.8. Coastal passes stabilization and restoration program

12 ~~(R.S. 49:214.9(A))~~ A. The ~~secretary of the Department of Natural Resources~~
13 executive director of the Office of Hurricane Protection, Flood Control, and Coastal
14 Restoration shall establish a coastal passes stabilization and restoration program
15 ~~within the Louisiana Coastal Wetlands Conservation and Restoration Program~~. As
16 part of the coastal passes stabilization and restoration program, the ~~department~~ office
17 shall require, when appropriate, that all coastal restoration or preservation projects
18 subject to public bid include provisions for beneficial use of dredge material, rocks,
19 or other hard materials to stabilize and restore coastal passes.

20 ~~(R.S. 49:214.9(B))~~ B. By September first each year, the governing authority of
21 each parish which has coastal passes shall submit to the ~~secretary~~ Office of
22 Hurricane Protection, Flood Control, and Coastal Restoration a list of coastal passes
23 stabilization and restoration projects requested for that parish. The Office of
24 Hurricane Protection, Flood Control, and Coastal Restoration shall review the
25 projects submitted and by November first of each year shall issue a list which
26 prioritizes those requests.

27 ~~(R.S. 49:214.9(C))~~ C. The priority list shall be promulgated and shall be subject
28 to legislative oversight by the House Committee on Natural Resources and
29 Environment and the Senate Committee on Natural Resources under the

Administrative Procedure Act. Such oversight shall occur prior to March first each year.

~~(R.S. 49:214.9(D))~~ D. Funding for the coastal passes stabilization and restoration projects shall be available from the Coastal Passes Stabilization and Restoration Fund. In the event funding from the Coastal Passes Stabilization and Restoration Fund is not appropriated in a given year, the Coastal Passes Stabilization and Restoration Program shall be suspended until funds are appropriated for the program.

~~(R.S. 49:214.10(A))~~ E.(1) There is hereby created, as a special fund in the state treasury, the Coastal Passes Stabilization and Restoration Fund, hereinafter referred to as the "Coastal Passes fund". The source of monies in the fund shall be appropriations, donations, grants, and other monies which may become available for the purposes of the fund.

~~(R.S. 49:214.10(B))~~ (2) The monies in the fund shall be subject to appropriation and may only be used as provided in ~~Subsection C~~ Paragraph (3) of Subsection E of this Section. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund, and interest earnings shall be deposited in and credited to the fund. All unexpended or unencumbered monies remaining in the fund at the end of the fiscal year shall remain to the credit of the fund.

~~(R.S. 49:214.10(C))~~ (3) Monies appropriated from the fund shall be used exclusively by the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration to support the Coastal Passes Stabilization and Restoration Program ~~within the Louisiana Coastal Wetlands Conservation and Restoration Program, as provided in R.S. 49:214.9.~~

§214.6.9. Appointment of ex officio Notaries

A. The executive director of the Office of Hurricane Protection, Flood Control, and Coastal Restoration may designate as ex officio notaries public a sufficient number of employees of their office and they may, without charge or other compensation, administer oaths, take acknowledgments, and perform all other duties which any notary public is authorized by law to perform. However, their authority

1 is limited to acts and instruments to which the office, the executive director, or by
2 designation, the Coastal Protection and Restoration Authority, is a party and to the
3 administration of oaths, affidavits, and other documents concerning any matter in
4 which the office is interested.

5 B. The cost of each notarial seal shall be paid by the Office of Hurricane
6 Protection, Flood Control, and Coastal Restoration.

7 §214.6.10. Hold Harmless

8 A. In accordance with Article XII, Section 10 of the Constitution of
9 Louisiana, and notwithstanding any other law to the contrary, the state of Louisiana,
10 its political subdivisions, and its agents or employees and, in addition, the United
11 States and its agents and employees, shall be held free and harmless from any claims
12 for loss or damages to rights arising under any contract or agreement, lease, permit,
13 or license granted to any individual or other entity for any purpose on state lands or
14 water bottoms from diversions of freshwater or sediment, depositing of dredged or
15 other materials, integrated coastal protection project, or any other actions, taken for
16 the purpose of management, preservation, enhancement, creation, protection, or
17 restoration of coastal wetlands, water bottoms, or related public or renewable
18 resources.

19 B. All departments, agencies, boards, or commissions of the state of
20 Louisiana and its political subdivisions shall include language which shall hold the
21 state and its political subdivisions harmless for the purposes set out in this Section
22 in all leases, permits, or licenses granted to any individual or other entity after July
23 1, 1995.

24 §214.6.11. National Flood Insurance Program Compliance

25 A. In order to secure for the citizens of the state of Louisiana the flood
26 insurance coverage provided for by the National Flood Insurance Act of 1968, 42
27 USC 4001 et seq., all of the parishes and municipalities of the state may adopt such
28 ordinances, rules, and regulations, including zoning and land use regulations, as are

necessary to comply with the requirements of said Act and the regulations adopted pursuant thereto by the Federal Emergency Management Agency.

B. The Office of Coastal Protection and Restoration shall cooperate with the Federal Insurance Administrator of the Federal Emergency Management Agency in the planning and carrying out of state participation in the National Flood Insurance Program and shall aid, advise, and cooperate with parishes and municipalities endeavoring to qualify for participation in said program.

C. Before construction of any project for local flood protection, or any project for hurricane or storm damage reduction which involves federal assistance from the Secretary of the United States Army, the local parish or municipality shall agree to participate in and comply with all applicable federal flood plain management and flood insurance programs, as required by 33 U.S.C. 701b-12.

D. Each parish and each municipality shall agree to participate in and comply with all applicable provisions of the federal flood plain management and flood insurance programs, as required by 33 U.S.C. 701b-12, before construction of any project for local flood protection or any project for hurricane or storm damage reduction which involves or receives federal assistance.

Section 4. R.S. 56:421(B)(3) and (E)(4), 424(H), 425(E), 427.1(C), 432.1(A), (B)(1)(a), (2), (3), and (4), (C)(Introductory Paragraph) and (1), (D)(1), and 432.2 are hereby amended and reenacted to read as follows:

§421. Oyster Task Force

* * *

B. The task force shall be composed of eighteen members to be appointed as follows:

* * *

(3) One member appointed by the ~~secretary of the Department of Natural Resources~~ executive director of the Office of Hurricane Protection, Flood Control, and Coastal Restoration.

* * *

E. The task force is hereby charged with responsibility to do the following:

* * *

(4) Make recommendations with respect to issues pertaining to the oyster industry and oyster production to the various state agencies charged with responsibility for differing elements of the oyster industry in this state, including the Department of Wildlife and Fisheries, the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration, the Department of Health and Hospitals, the Governor's Office of Coastal Activities, and the legislature.

* * *

§424. Taking of oysters

* * *

H. Notwithstanding the provisions of this Section, employees or assigns of the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration may survey or remove, as a sample, oysters from an oyster lease on state water bottoms in order to make determinations in matters of coastal protection, conservation, or restoration. In order to make such surveys or take such samples, the employees or assigns of the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration shall first notify the leaseholder in writing of the date and time of the survey or sample at least fifteen days prior to the survey or sampling date. This notification shall be sent by certified mail to the leaseholder at the address on file with the Department of Wildlife and Fisheries. The leaseholder may accompany the person conducting the survey or taking the sample during the survey or sampling or may authorize another person to accompany the person conducting the survey or taking the sample. Such surveys shall be conducted in the manner provided in procedures promulgated by the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration after consideration of recommendations by the Louisiana Oyster Task Force.

* * *

§425. Lease of water bottoms; stipulations; boundary disputes

* * *

E. No lease shall be granted for any water bottom for which any lease was previously acquired by the state for coastal protection, conservation, or restoration, unless the ~~secretary~~ executive director of the Office of Hurricane Protection, Flood Control, and Coastal Restoration determines that leasing would otherwise be appropriate under the provisions of this Subpart and the ~~secretary of the Department of Natural Resources~~ executive director of the Office of Hurricane Protection, Flood Control, and Coastal Restoration affirms that the water bottom is not necessary for coastal protection, conservation, or restoration. Unless this determination has been made prior to issuance of the lease, a lease of water bottom for which a lease was previously acquired shall be null and void for such water bottom and shall be of no force or effect. No person shall have any claim against ~~either secretary, either department,~~ the state of Louisiana, its political subdivisions, the United States, or any agency, agent, contractor, or employee thereof or any other person in relation to the nullity of such lease.

* * *

§427.1. State, political subdivisions of the state, and the United States held harmless in coastal restoration

* * *

C.(1) A leaseholder whose oyster lease is acquired in whole or in part by the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration pursuant to R.S. 56:432.1 for dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration may seek compensation from the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration pursuant to that Section.

(2) A leaseholder may seek acquisition and compensation from the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and

Coastal Restoration pursuant to R.S. 56:432.1 for any portion of an oyster lease that is not acquired by the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration and upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred.

* * *

§432.1. Oyster Lease Acquisition and Compensation Program

A. The legislature hereby acknowledges potential conflicts between the Department of Wildlife and Fisheries oyster leasing program and the Louisiana coastal restoration program provided for in R.S. ~~49:213.1~~ 49:214.1 et seq. Therefore, the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration shall develop a program, subject to the requirements and conditions of this Section, for the acquisition of and compensation for oyster leases or portions of oyster leases upon which occurs or will occur dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration.

B. The state of Louisiana, through the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration, may acquire any oyster lease, in whole or in part, due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration.

(1) Acquisition shall be implemented by a notice of acquisition issued to the leaseholder. Such notice shall specify the acreage acquired and the effective date of the acquisition. A plat or map depicting the acreage acquired shall be attached to the notice. The notice and acquisition shall be subject to the following:

1 determination of compensation, provided that the data or information is submitted in
2 compliance with rules or regulations promulgated by that department prior to the date
3 of initial issuance of the determination of compensation. Such rules or regulations
4 shall provide the leaseholder at least sixty days in which to submit such data or
5 information before the initial issuance of the determination of compensation.

6 (3) The ~~Department of Natural Resources~~ Office of Hurricane Protection,
7 Flood Control, and Coastal Restoration shall issue payment to the leaseholder in the
8 full amount of its determination of compensation, except for and less any amount due
9 on recorded liens and encumbrances to be paid out of said proceeds, together with the
10 notice of acquisition, and by the same procedure provided for issuance of such notice.
11 Acceptance of such payment shall not preclude any claim for additional
12 compensation, as provided in this Section. If the ~~Department of Natural Resources~~
13 Office of Hurricane Protection, Flood Control, and Coastal Restoration is unable to
14 contact the leaseholder by the procedure provided in Subparagraph (B)(1)(a), that
15 department shall transfer funds in the amount of the determined compensation except
16 for and less any amount due on recorded liens and encumbrances to be paid out of
17 said proceeds, to a trust account, instead of attaching such payment to the reissued
18 notice. Upon request of the leaseholder listed with the Department of Wildlife and
19 Fisheries on the date notice of acquisition is initially issued, any such compensation
20 may be withdrawn from the trust account for the benefit of the leaseholder. Any
21 funds placed in a trust account that remain unclaimed after a period of five years shall
22 be declared to be abandoned and may be disposed of pursuant to the Uniform
23 Unclaimed Property Act, R.S. 9:151 et seq. Any amount due on a recorded lien or
24 encumbrance shall be paid directly to the holder thereof, with a copy of all
25 documentation of such payment issued to the leaseholder. If the ~~Department of~~
26 ~~Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal
27 Restoration is unable to contact the holder of the lien or encumbrance, that department
28 shall transfer funds in the amount of the lien or encumbrance to a trust account, from
29 which it may be withdrawn for the benefit of the lien or encumbrance holder.

1 (4) To the extent that the ~~Department of Natural Resources~~ Office of
2 Hurricane Protection, Flood Control, and Coastal Restoration acquires any lease or
3 portion thereof under this Section in relation to any project or action for coastal
4 protection, conservation, or restoration performed by any department, agency, board,
5 commission, or political subdivision of the state other than the ~~Department of Natural~~
6 ~~Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration,
7 such department, agency, board, commission, or political subdivision shall
8 compensate the ~~Department of Natural Resources~~ Office of Hurricane Protection,
9 Flood Control, and Coastal Restoration for all costs incurred by the department which
10 are associated with the acquisition. However, the ~~secretary of the Department of~~
11 ~~Natural Resources~~ executive director of the Office of Hurricane Protection, Flood
12 Control, and Coastal Restoration may waive this requirement.

13 C. A leaseholder whose lease is acquired in whole or in part may seek an
14 administrative hearing through the ~~Department of Natural Resources~~ Office of
15 Hurricane Protection, Flood Control, and Coastal Restoration as to whether the
16 acquisition due to the impact of dredging, direct placement of dredged or other
17 materials, or other work or activities necessary for the construction or maintenance
18 of a project for coastal protection, conservation, or restoration is proper or whether
19 the compensation issued by the ~~Department of Natural Resources~~ Office of Hurricane
20 Protection, Flood Control, and Coastal Restoration satisfies the rules or regulations
21 of that department. A leaseholder whose lease is not acquired but which was
22 impacted by dredging, direct placement of dredged or other materials, or other work
23 or activities necessary for the construction or maintenance of a project for coastal
24 protection, conservation, or restoration has occurred, may also seek an administrative
25 hearing through the ~~Department of Natural Resources~~ Office of Hurricane Protection,
26 Flood Control, and Coastal Restoration to determine if acquisition of such acreage
27 would be proper. Adjudication under this Section shall be conducted in accordance
28 with the following:

(1) Adjudication under this Section must be requested in writing and received by the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration within sixty days after issuance of the notice of acquisition, determination of compensation, or payment as provided in Subsection B of this Section. However, adjudication of the amount of the compensation must be requested in writing and received by the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration within two years after completion of the project for which the lease or portion of the lease was acquired, if the leaseholder establishes that notice of the acquisition, determination of compensation, or payment was not issued as required in this Section. Adjudication of the lack of acquisition of leased acreage upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred must be requested in writing and received by the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration within two years after completion of the project.

* * *

D. A leaseholder may seek in accordance with the following, judicial review of the final decision of the administrative law judge based solely on the administrative record and, except as otherwise provided in this Section, in accordance with the provisions of Chapter 13-B of Title 49 of the Louisiana Revised Statutes of 1950.

(1) Any petition for judicial review pursuant to this Subsection must be filed with the Nineteenth Judicial District Court within sixty days after issuance of the final decision of the administrative law judge. No petition for judicial review may be filed, and any such petition is premature, unless adjudication has been timely sought and all administrative remedies have been exhausted. The petition shall be served upon ~~the secretary of the Department of Natural Resources~~ executive director of the Office of Hurricane Protection, Flood Control, and Coastal Restoration and all parties of record.

* * *

§432.2. Annual reporting of coastal protection, conservation, and restoration project status

Once per year, in coordination with the Louisiana Oyster Task Force, the ~~Department of Natural Resources~~ Office of Hurricane Protection, Flood Control, and Coastal Restoration shall provide information to the Oyster Task Force regarding the nature, location, and status of current or planned projects for coastal protection, conservation, or restoration to the extent practical.

Section 5. Chapter 3-A of Title 38 of the Louisiana Revised Statutes of 1950, comprised of R.S. 38:241 through 249, is hereby repealed in its entirety.

Section 6. Subpart A of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, comprised of R.S. 49:213.1 through 213.12, and R.S.49:214.3 through 214.16 are hereby repealed in their entirety.

Section 7. The Coastal Protection and Restoration Authority is hereby assigned and subsumes all of the duties and responsibilities previously exercised by any other state agency, including but not limited to, the Department of Natural Resources, the Department of Transportation and Development, the Office of Public Works, and the Department of Wildlife and Fisheries with regard to previously executed agreements and contracts, the purposes of which are under the duties, jurisdiction, responsibilities, and powers granted to the Coastal Protection and Restoration Authority. The Coastal Protection and Restoration Authority is here given the power to execute, sign, modify, amend, and renew any such agreement on its own behalf or on behalf of the state of Louisiana.

Section 8. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Dove

HB No. 833

Abstract: Consolidates hurricane protection, flood control, and coastal restoration responsibilities under the newly created Office of Hurricane Protection, Flood Control, and Coastal Restoration.

Creates the Office of Hurricane Protection, Flood Control, and Coastal Restoration in the Office of the Governor. Consolidates functions relative to hurricane protection, flood control, and coastal restoration under the authority of that office. Provides relative to the powers, duties, functions, and responsibilities of that office. Provides for the inter-relations between the Governor's Office of Coastal Activities, the Coastal Protection and Restoration Authority, the Governor's Advisory Commission on Coastal Protection, Restoration, and Conservation, and the Office of Hurricane Protection, Flood Control, and Coastal Restoration.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 36:4(Z), 358(B), and 508.3(A), (B), (C), (F), and (G), R.S. 38:100(Introductory Paragraph), 101(A) and (B), 102, 103(A) and (B), 106(A)(1) and (2) and (B), 107(A), 108, and 109, R.S. 49:214.1 and 214.2, R.S. 56:421(B)(3) and (E)(4), 424(H), 425(E), 427.1(C), 432.1(A), (B)(1)(a), (2), (3), and (4), (C)(Introductory Paragraph) and (1), (D)(1), and 432.2; Adds R.S. 49:214.3.1, 214.4.1 and 214.4.2, 214.5.1. through 214.5.8, and 214.6.1 through 214.6.11; Repeals Chapter 3-A of Title 38 of the Louisiana Revised Statutes of 1950, comprised of R.S. 38:241 through 249, Subpart A of Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, comprised of R.S. 49:213.1 through 213.12, R.S.49:214.3 through 214.16)